DOCUMENT RESUME

ED 232 080 CG 016 774

TITLE Dealing with Serious, Repeat Juvenile Offenders. Report of a Conference (District of Columbia, July 30-31, 1981).
INSTITUTION INSLAW, Inc., Washington, DC.
SPONS AGENCY Office of Juvenile Justice and Delinquent Prevention (Dept. of Justice), Washington, D.C.
REPORT NO NCJ-83887
PUB DATE 82
CONTRACT J-LEAA-006-81
NOTE 86p.; Some figures are marginally reproducible.
PUB TYPE Collected Works - Conference Proceedings (021)

EDRS PRICE MF01/PC04 Plus Postage.
DESCRIPTORS Crime; Criminal Law; *Delinquency; *Delinquent Rehabilitation; Individual Characteristics; *Juvenile Courts; Law Enforcement; *Recidivism; Sentencing; Violence

ABSTRACT

This booklet reports the deliberations of a panel of 37 judges, prosecutors, and researchers who attended a national conference to consider dealing with repeat juvenile offenders. The five conference sessions focus on: (1) Assessing the Problem: Offense and Offender Characteristics; (2) Processing Offenders: An Empirical Review of Current Practices; (3) Legal Processing of Offenders; (4) New Approaches; and (5) Evaluating Options: Rehabilitation versus Community Protection. The format for the session reports consists of a presentation by an expert in the field of juvenile crime, followed by a summary of participants' discussion. A final section of the booklet lists the nine recommendations of the conference participants and a discussion of each of the recommendations. A list of key questions not addressed in depth by the conference, the biliography provided to conference participants, and a list of resource panel members and invitees are included. (MCF)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

U.S. Department of Justice
Office of Juvenile Justice and Delinquency Prevention
National Institute for Juvenile Justice and Delinquency Prevention

---

Dealing With Serious, Repeat Juvenile Offenders

Report of a Conference
July 30-31, 1981
Washington, D.C.

Published 1982

ED232080

U.S. DEPARTMENT OF EDUCATION
NATIONAL INSTITUTE OF EDUCATION
EDUCATIONAL RESOURCES INFORMATION
CENTER (ERIC)

☐ This document has been reproduced as received from the person or organization originating it.
☒ Minor changes have been made to improve reproduction quality.

- Points of view or opinions stated in this document do not necessarily represent official NIE position or policy.

CG 016774

This report was prepared by INSLAW, Inc., and was supported by Contract Number J-LEAA-006-81 from the Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice. Points of view or opinions expressed in this document do not necessarily represent the official position or policies of the U.S. Department of Justice.

NCJ-83887

Copyright © 1981, INSLAW, Inc.

The Office of Juvenile Justice and Delinquency Prevention reserves the right to reproduce, publish, translate, or otherwise use, and to authorize others to publish and use, all or any part of the copyrighted materials contained in this publication.

FOREWORD

"The control of violent crime is my chief priority for the Justice Department," Attorney General William French Smith said in opening the first session of his 1981 Task Force on Violent Crime. Although arrest records suggest that proportionally more serious crimes are committed by persons under 18 years old than by persons in other age brackets, other scientific evidence demonstrates that relatively few juveniles--perhaps as few as 5 percent--are responsible for the vast majority of such crimes committed by youth.

Thus it is the repeat offender--particularly the youth who commits five or more serious offenses--who creates the public perception that serious juvenile crime is increasing. Questions about how to prevent, treat, or reform the repeat serious offender are among the most important facing the juvenile justice community today. The National Institute for Juvenile Justice and Delinquency Prevention has supported intensive studies in this area, and additional work is underway.

In 1981, the Office of Juvenile Justice and Delinquency Prevention contracted with the prestigious justice research firm, INSLAW, Inc., to organize a national conference to consider the topic "Dealing With Serious, Repeat Juvenile Offenders." INSLAW received the assistance and advice of the National Council of Juvenile and Family Court Judges and of the National District Attorneys Association, and a panel of 37 distinguished judges, prosecutors, and researchers met in Washington, D.C., on July 30-31, 1981. This booklet reports their deliberations.

The emphasis was on reviewing those legal processes, such as waiver to adult criminal court, that traditionally fall within the discretion of prosecutors and judges but which have recently been increasingly defined by legislative guidelines. Alternatives to waiver for serious repeat juvenile offenders also were discussed, and nine conference recommendations were made for consideration by the Office of Juvenile Justice and Delinquency Prevention.

James C. Howell, Ph.D., Acting Director
National Institute for Juvenile Justice
and Delinquency Prevention
Office of Juvenile Justice and
Delinquency Prevention
U.S. Department of Justice

CONTENTS

PAGE

Foreword iii

Conference Opening Remarks 1

I. Assessing the Problem: Offense and Offender Characteristics 3

- A. Introduction by James C. Howell 3
- B. Discussion Summary 21

II. Processing Offenders: an Empirical Review of Current Practices 23

- A. Legislation and Juvenile Court Procedures by John L. Hutzler and Howard N. Snyder 23
- B. Juveniles in Adult Court by Donna Hamparian 39
- C. Discussion Summary 45

III. Legal Processing of Offenders 49

- A. Introduction by Barry Feld 49
- B. Discussion Summary 54

IV. New Approaches 57

- Presentation of Alternative Approaches 57

V. Evaluating Options: Rehabilitation vs. Community Protection 63

VI. Recommendations and Further Questions 65

Bibliography of Conference Materials 75

Conference Participants 77

Conference Opening Remarks

James Kelley
General Counsel
INSLAW, Inc.

INSLAW was asked a few short weeks ago by the Office of Juvenile Justice and Delinquency Prevention to assemble, with the advice and assistance of the National Council of Juvenile and Family Court Judges and the National District Attorneys Association, this most distinguished panel of prosecutors, judges, and researchers for the purpose of conducting an experiment. Whether this experiment will be known as a noble and successful one depends entirely upon the 38 people seated around this table.

This conference must first overcome a background of traditional attitudes held by the three disciplines represented here, attitudes that range from one of disdain and disinterest in juvenile justice by many prosecutors to a jealous protection of Juvenile Court prerogatives by many judges (who view the intrusion of prosecutors into juvenile justice as unnecessary and unwarranted), to beliefs by juvenile justice researchers that no matter how carefully and how accurately they conduct their research the practitioners never pay any attention to the results anyway.

It is my hope that we can lay aside any vestige of these attitudes for the next day and one half and examine with honesty and candor the subject of this conference: "Dealing with Serious, Repeat Juvenile Offenders," which of course contains a subset of violent offenders.

I know that within the confines of this room there are widely divergent views as to the extent, growth, and size of this problem. Some will say there is no real increase in violent juvenile offenses, while others will point to what is happening in their jurisdictions. However, there is an irrefutable conclusion, upon which we can all agree: rightly or wrongly the public's perception of serious juvenile crime is that it has grown enormously in recent years and that it is threatening the very fabric of urban society. Whether this perception is true or not, it is undeniably held by a growing number of the citizens in our communities. It is, therefore, incumbent upon the criminal and juvenile justice community to deal with this problem, perceived or real, and to seek approaches and solutions. Make no mistake about it -- if practitioners fail to deal with the problem, the public will, either through the ballot box or by forcing new legislation.

6

Through such hurried and often unthinking change the good may be discarded as the proverbial baby was with the bath water.

We, of course, in the few hours of this conference cannot expect or be expected to solve these problems, but it is hoped that we can make some recommendations to OJJDP and other policy makers that will point the way to new programs and approaches and new areas of research. So, that is the challenge, and I am confident that with the talent, experience, and ability seated around this table we can rise to the challenge and make this experiment not only a noble one, but a successful one as well.

I. ASSESSING THE PROBLEM: OFFENDERS AND OFFENSE CHARACTERISTICS

A. INTRODUCTION

James C. Howell
Staff Coordinator
Office of Juvenile Justice
and Delinquency Prevention
Washington, D.C.

Dr. James C. Howell, Staff Coordinator, Office of Juvenile Justice and Delinquency Prevention,* welcomed the participants on behalf of Charles A. Lauer, Acting Administrator. Dr. Howell also read from a statement orginally presented by Mr. Lauer to the Subcommittee on Juvenile Justice, U.S. Senate Judiciary Committee on July 9, 1981.

Those sections of Mr. Lauer's statement presented by Dr. Howell at the conference are reprinted here. The report provided participants with an empirical background concerning the extent of the serious, repeat juvenile crime problem.

---

* Now Acting Director, National Institute for Juvenile Justice and Delinquency Prevention.

EXCERPTS FROM THE STATEMENT OF CHARLES A. LAUER BEFORE THE SUBCOMMITTEE ON JUVENILE JUSTICE AND JUDICIARY COMMITTEE, UNITED STATES SENATE

For the purpose of this statement, "violent juvenile crime" is defined to include the following offenses: murder, robbery, forcible rape, and aggravated assault. "Serious property crime" is defined to include burglary, larceny-theft, motor vehicle theft, and, in some instances, arson. I shall use the general term "serious" juvenile crime to encompass both "violent juvenile crime" and "serious property crime." This departure from the statutory definition of serious juvenile crime contained in the Juvenile Justice and Delinquency Prevention (JJDP) Act is made only for convenience purposes because of the manner in which crime statistics are typically reported.

"Juvenile" generally refers to persons under the age of 18; youthful offenders (18-20); and adults (21 and older). Such a precise age distinction cannot be made in certain data areas.

Magnitude of the Problem

There are four major sources of regular national statistics on serious and violent juvenile crime: the FBI's Uniform Crime Reports (UCRs) on arrests; the National Crime Survey (NCS) of victimizations against persons, households, and commercial establishments; nationwide self-reported* delinquency surveys; and an annual statistical series on juvenile court handling of juveniles. Data from each of these sources are summarized below.

Arrests. Examination of UCR arrest data from several viewpoints helps illuminate juvenile involvement in serious and violent crime. These viewpoints might be posed as questions.

1) What proportion of all arrests do juveniles account for?

About 23% in 1979. Young persons (aged 18-20) accounted for 17%, and adults (21 and older), 60%.

---

*This method involves asking juveniles what crimes they have committed.

2) What proportion of all arrests for serious and violent crimes do juveniles account for?

In 1979, juveniles accounted for about 20% of all violent crime arrests, 44% of all serious property crime arrests, and 39% of all serious crime arrests.

Young persons accounted for 17% of all violent crime arrests; 19%, serious property; and 18%, overall serious.

Adults accounted for 63% of all violent crime arrests; 38%, serious property; and 43%, overall serious.

3) What proportions of juvenile arrests are for serious and violent crimes?

In 1979, about 4% of all juvenile arrests were for violent crimes, 35% for serious property crimes, and 39% for serious crimes overall. About 10% of all juvenile arrests for serious crimes were for violence; about 90% were for serious property crimes.

These data make it clear that juveniles are disproportionately involved in serious crimes, especially when one considers that in 1979, youths aged 10-17 represented about 14% of the total U.S. population.

Although arson is not considered a violent offense in the UCRs, many experts do view it as such -- particularly when lives are endangered. Inclusion of arson in the violent crime category reveals that juveniles accounted for about one-fourth of all violent crime arrests in 1979.

4) What proportion of each violent crime do juveniles account for?

In 1979, juvenile arrests represented about 9% of all arrests for murder, 16% of all arrests for robbery, and 16% of all arrests for aggravated assault.

These data indicate juvenile involvement in violent crime to be most disproportionate in robbery offenses.

5) What proportion of each serious property crime do juveniles account for?

In 1979, juvenile arrests represented about 49% of all arrests for arson, 49% for auto theft, 49% for burglary, and 40% for larceny.

These arrest data clearly document the disproportionate involvement of juveniles in serious property crimes.

6) What is the proportion of violent juvenile arrests for each such offense?

In 1979, 2% of all violent juvenile arrests were for murder, 5% for rape, 47% for robbery, and 46% for aggravated assault.

These data show that, among violent crime arrests of juveniles, robbery and aggravated assault are most predominant.

7) What is the proportion of serious property juvenile arrests for each such offense?

In 1979, 1% of all serious property juvenile arrests were for arson, 9% for auto theft, 30% for burglary, and 59% for larceny.

These data show that, among serious property arrests of juveniles, burglary and larceny-theft (especially) are most predominant.

8) What is the proportion of total serious juvenile arrests that is for particular serious (violent and serious property) crimes?

It was noted above that about 10% of all serious juvenile arrests were for violent crimes; 90% for serious property offenses during 1979. The proportion of all serious juvenile arrests for each offense in 1979 was: murder (.2%), rape (1%), robbery (5%), aggravated assault (5%), arson (1%), auto theft (8%), burglary (27%), and larceny (53%).

These data show that, when the total volume of serious juvenile arrests is considered, the property crimes of larceny-theft (especially) and burglary are most predominant.

9) What is the peak age of arrests of juveniles for serious and violent crimes?

For serious property crimes: 16 years of age; for violent crimes: 17-18.

Victimizations. Since 1973 the (now) Bureau of Justice Statistics has sponsored national victimization surveys of individuals (aged 12 and above) and commercial businesses. The survey focuses on illegal behavior in which victims come face-to-face with offenders (rape, personal and commercial robbery, assault, and personal larceny). The Office of Juvenile Justice and Delinquency Prevention has sponsored special analyses of these data in which, for comparative purposes, the criminal involvements of juvenile offenders (under 18 years of age) were compared with those of youthful offenders (18 to 20 years old) and adult offenders (21 or older). These analyses, by Dr. Michael Hindelang and his colleagues, have revealed the following with respect to the relative involvement of juveniles in the above offenses--as perceived by those victimized:

1) During the period 1973-1977, juvenile offenders accounted for 23% of all victimizations (for the above face-to-face offenses).

2) During the period 1973-1977, juveniles accounted for an average of 8.2% of all rapes; 24.2% of all robberies; 17.8% of all aggravated assaults; and 30.4% of all personal larcenies.

3) During the period 1973-1979, juveniles had a higher estimated rate of offending in total personal crimes (per 100,000 persons in each population subgroup) than adults. The respective rates in 1977 were 4,852 for juveniles and 2,582 for adults. Youthful offenders (aged 18-20) had the highest rate in 1977: 8,116 per 100,000 population.

Hindelang and his associates examined the "seriousness" of those (mostly violent) crimes when committed by juveniles and adults -- as perceived by the victims. They found juvenile crimes to be "demonstrably" less serious, according to the victims, because juveniles are less likely to use weapons, are less successful in completing acts of robbery and larceny (and completed thefts result in smaller financial losses), and they do not injure their victims as severely as do adults.

Self-reported Delinquency. Since 1976, OJJDP, in conjunction with the Center for Studies of Crime and Delinquency, has sponsored nationwide annual surveys of self-reported delinquency behavior and drug use among a nationally representative sample of juveniles aged 12-18. Preliminary results from these surveys challenge conventional wisdom that serious and violent crime is generally rampant among juveniles. Rather, it appears that a small proportion of juveniles are repeatedly engaging in such criminality.

Based on the national sample surveyed, the proportion self-reporting involvement in serious criminality was small: 6% admitted having committed aggravated assault, 4% grand larceny, 6% breaking and entering, 9% assaulting a teacher, 12% carrying a concealed weapon, 14% gang fighting, and 3% strongarm extortion.

These data also show that among boys those who commit relatively serious crimes do so relatively frequently. Using the average number of offenses committed in each category, the researchers estimated males aged 12 to 18 to commit each year: 3.3 million aggravated assaults; 15 million individual participations in gang fights; 4.4 million strikings of teachers; 2.5 million grand thefts; and 6.1 million breakings and enterings. These figures are many times greater than the number of arrests of juveniles each year for these offenses.

Self-report studies (along with victimization surveys) have made an important contribution to understanding and measuring crime. They have uncovered much of the so-called "hidden crimes"--those not reported to the police or other authorities. Only somewhere between 3 and 15% of all delinquent acts result in a police "contact," much less an arrest. Surprisingly, a large amount of serious juvenile crime is not brought to the attention of police. In the follow-up research to the Philadelphia birth cohort study, Wolfgang and his colleagues found that a sample of the original study group admitted (self-reported) having committed from 8 to 11 serious crimes for each time they were arrested. "Chronic recidivists" (those with 5 or more police contacts) self-reported more serious arrests than other official delinquents in the sample.

Self-report studies have also made an important contribution toward understanding differences among cities versus other areas in self-reported delinquency. These local studies have shown higher rates of serious delinquent acts in the larger cities than other areas, suggesting that national self-report surveys may underestimate the magnitude of serious juvenile crime.

Weis and Sederstrom, based on the numerous self-report study results, observe that there may well be literally millions of serious crimes being committed each year by youths, each with at least one victim. They note several alarming findings:

> First, the reported violent crimes are not importantly different in prevalence and incidence from the property crimes; second, because this is a national survey the estimates are lower than they would be for high crime rate cities or social areas within cities; third, if the usual criteria for "chronic offender" -- for example, five or more arrests -- are applied, the typical self-reported serious offender achieves chronicity more than once a year; fourth, compared with studies using official data on violent recidivism, repeated violence is a norm for some rather than a very rare event; and fifth, given that a variety of serious offenses are intercorrelated and those juveniles who commit them often do so more than once a year, they are even more active than an analysis of individual acts would suggest.

Juvenile Court Handling. (These data were excluded from Mr. Howell's remarks and presented by John Hutzler and Howard Snyder later in the conference. Refer to "Dealing with Serious, Repeat Juvenile Offenders: An Empirical Review of Current Practices," page 23.)

Data derived from those four major sources have been supplemented by the results of special studies on various aspects of the serious and violent juvenile crime problem. Their results are summarized very cogently in a draft report prepared by NIJJDP's National Center for the Assessment of Delinquent Behavior and Its Prevention at the University of Washington.* It is based on an extensive assessment of the serious and violent juvenile area from the standpoint of prevention. The remainder of this section, as well as the following "Major Issues" section, draws heavily upon that report.

Characteristics of Serious and Violent Juvenile Offenders. The summary characteristics of these offenders are:

> predominately male; disproportionately represented among minority youth; more likely to have school problems, including poor academic performance, interpersonal difficulties, and conduct problems; characterized by high residential mobility; typically come from economically disadvantaged origins; experiencing employment problems; more likely from families characterized by higher rates of disorganization and instability; inadequate supervision; conflict and disharmony and poor parent-child relationships; early starters in delinquency but are usually older than most delinquents, especially those who engage in violence; and are typically involved in group offenses, with gang membership playing an important role.

Weis and Sederstrom note several striking features of the salient characteristics of serious juvenile delinquents:

1) they do not typically include the abnormal biological or psychological attributes often attributed to these offenders;

---

* Joseph G. Weis and John Sederstrom, The Prevention of Serious Delinquency: What to Do? University of Washington, National Center for the Assessment of Delinquency Behavior and Its Prevention, 1981. Distributed by Juvenile Justice Clearinghouse/NCJRS, Rockville, Md. 20850.

2) the role of gangs is more prominent;

3) the characteristics of these youths personify the social areas, neighborhoods, or communities where they live -- communities with high crime rates and a plethora of other related problems; and,

4) they are similar to the strongest general correlates of juvenile delinquency, which include demographic variables (sex, race, and age) and the more causal variables (family, peer group, school, employment opportunities, the law, and community dynamics).

Correlates and Causes. As noted above, communities with overall high crime rates and other related social problems, as well as sex, race, and age, are correlated with serious delinquency. Also, the strongest causal variables of serious delinquency are family, peer group, school, employment opportunities, and community dynamics.

Among these causal variables, the chain of causation moves from family to school to peer relations (in ascending order). These are the strongest causal variables of serious delinquency.

These three variables also show the same rank order of explanatory power when delinquency in general is examined. Only one important difference exists whether one is explaining serious or petty delinquent behavior: youths' attachment to parents and school may be slightly more predictive of involvment in petty than in serious delinquency.

Socioeconomic status does not appear to be a strong correlate of either general or serious delinquency.

For general delinquency (self-reported and officially recorded) the strongest correlates are peer items, sex of the juvenile, and school variables. For self-reported delinquency only, family variables, employment, and age are the next strongest correlates.

The Major Contexts of Serious and Violent Delinquency. It is important to recognize that juvenile delinquents show very little evidence of career, offense, or violent specialization. Juveniles with official records typically have arrests for a variety of offenses. Therefore, it is important to examine the social contexts of serious and violent offenses when considering intervention approaches.

The most prevalent social context of serious and violent juvenile criminality is what Walter Miller has described as "law violating groups." These disruptive and often predatory groups are usually small (5-10 members) and form periodically robbery bands, extortion cliques, and burglary rings. Although they do not typically evidence the formal organization of youth gangs, claim a turf, and carry a group identity, such groups are the most devastating when the total volume of serious and violent crime is considered. Miller estimates that these disruptive youth groups involve perhaps up to 20% of eligible boys in cities of over 10,000 population, and their membership consists of less than 10% gang members. He argues that more resources should be allocated to dealing with these law violating groups than gangs because of the pervasiveness of this phenomenon.

Miller also estimates that about 47% of all serious crimes by individuals and groups, and about 71% of all serious crimes by youths, are the product of law violating groups.

A second important context of serious and violent juvenile criminality is youth gangs. Although most behavior by gang members is noncriminal, gang members are far more likely than other youths (including members of law violating groups) to engage in violent forms of crime. They also use guns as weapons more frequently. This has made some of the gang violence a greater threat and danger than ever before. These conclusions are drawn by Dr. Walter Miller, who has recently completed the first national survey of youth gangs and other law violating groups for OJJDP, major findings from which follow. These results are preliminary at this point.

Youth gang problems were reported by five of the six "largest" cities (population one million or more), 17 of the 36 metropolitan areas (population one million or more), and 40 of the Nation's 150 "large" cities (population 100,000 or more). The West has replaced the Northeast as the region with the greatest number of "large" gang problem cities: over one-half of the U.S. total. Fifty percent of the Nation's "large" gang problem cities were found in California alone, which contains 13% of the "large" U.S. cities. Cities and towns with gang problems were located in 11 of California's 17 metropolitan areas.

Gangs are disproportionately concentrated in the largest cities. About one-half of the Nation's gangs, and two-thirds of all gang members, are located in the ten greatest gang problem cities (New York, Chicago, Los Angeles, Philadephia, Detroit, San Diego, San Antonio, Phoenix, San Francisco and Boston). Nevertheless, about one-half of the Nation's gangs and about one-third of its gang members are found in cities with a population of 500,000 or less. Thus the 1970's witnessed a greater probability of finding gangs in cities of smaller size than has traditionally been the case.

There are about 2,200 gangs with 96,000 members located in approximately 300 U.S. cities and towns.

The greater tendency of gang members than other youth to engage in violent forms of crime is illustrated in New York City data. A comparison of arrests among N.Y. gang members with those of non-gang youth in that city showed that gang members were arrested in significantly higher proportions for robbery, rape, assault, and weapons violations. Robbery ranked first as a basis for arrests of gang members, with 30% of their arrests for this offense, compared to 7% for non-gang youth.

Killings play a major role in the criminal activities of juvenile gang members. In 60 of the Nation's 300 gang problem cities alone, approximately 3,400 gang-related homicides were recorded during the period 1967-1980. During 1979, gang killings accounted for 59% of arrests of juveniles for homicide.

Miller concludes that gangs have changed significantly over the past 2 or 3 decades in the following ways: (1) gang problems are more apparent in smaller communities; and (2) they are not confined to traditional inner-city areas or neighborhoods.

A third prevalent context of serious and violent juvenile delinquency is schools. In 1976-77, the National Institute of Education surveyed a nationally representative sample of over 4,000 public elementary and secondary schools with respect to the incidence of disruptive, criminal, and violent activities. The following were among the findings:

1) The risk of violence to teenage youngsters is greater in school than elsewhere. A remarkable 68% of the robberies and 50% of the assaults on youths aged 12-15 occur at school.

2) Around 6,700 schools are seriously affected by crime.

3) An estimated 282,000 students are attacked at school in a typical one-month period (42% of which involve some injury).

4) An estimated 112,000 students have something taken from them by force, weapons, or threats in a typical month.

5) An estimated 5,200 teachers are physically attacked at school in a month's time.

These data clearly show that violent juvenile crime is to a large degree a school context as well as a street problem.

Trends. The overall volume of serious and violent juvenile crime appears to have leveled off beginning about 1975 -- a point in time which roughly correlates with a sharp decrease in the number of "baby boom" youth of juvenile age. Whether one is examining official records (arrests), self-reported delinquency results, or victimization data, decreases in the volume of serious and violent delinquency are apparent. However, this is not to say that the rate of juvenile involvement in serious and violent criminality is decreasing, for it may not be.

Over the past few years, while the volume of adult serious crime arrests has continued to increase, such juvenile arrests have levelled off for the most part. Arrest rates for adults also increased at a greater rate than for juveniles during the 1970's, while the arrest rate for juveniles has remained more than 50% greater than that for adults.

These results of the NCP victimization surveys indicate that rates of being victimized by juveniles for serious crimes, both personal and property, have remained relatively stable over the past 10 years while adult rates have increased.

Preliminary analyses of the national self-report survey data have revealed a possible decrease overall in delinquent behavior, and serious delinquency as well, during the late 1970's.

National juvenile court data also show a slight decrease in the total number of juvenile cases handled during the late 1970's. However, the number of serious delinquency cases handled has not.

Despite the apparent decrease in the volume of serious and violent juvenile criminality this remains a serious problem of enormous magnitude in this country. Even though the bulk of juvenile delinquency is nonserious (60% of all juvenile arrests are for Part II UCR offenses), 40% of juvenile arrests are for serious crimes, in contrast with only 20% for adults. Thus a greater proportion of juvenile than adult crime is serious.

Major Issues

The following is a brief discussion of several selected major issues pertaining to serious and violent juvenile crime.

1) Are there unique patterns of serious and violent juvenile behavior?

   Current discussion and debate about juvenile justice usually assumes that youths tend to "specialize" in delinquent "careers." This tendency is evidenced by popular use of such terms as "status offender," "nonoffender," and "career" criminal.

   Weis and Sederstrom's exhaustive review of the literature, research, and data pertaining to serious and violent juvenile crime led them to conclude that: "In general, contrary to common belief, the evidence suggest that there is not violent offense or offender specialization, but rather versatility of involvement in illegal behavior, and the most useful empirical distinction is between serious and less serious (or petty) offenders. Both engage in nonviolent and violent acts, but the former do so more frequently and commit more serious and violent crimes, with accompanying more likely official records of their involvements."

Some self-report research has suggested the presence of behavioral specialization; however Weis and his colleagues have not found offender specialization by behavior pattern -- rather, they found greater empirical support for offender specialization by seriousness of involvement.

More recent national self-report data shows evidence of the existence of patterned serious delinquency. Preliminary analysis of multi-year data has revealed that among "serious delinquents"* (who constituted about 8% of the total sample), about one-third of these stayed "serious" the next year. About 14% of these "serious delinquents" failed to report any serious offenses in the subsequent year.

Research using official records also fails to support the notion of behavioral specialization. Such research has found a lack of career, offense, or even violent specialization. Such data (primarily of arrests) primarily reflect frequency and seriousness differences among juveniles' records (and within their own delinquent histories). However, the probability of a record of a violent offense is greater among youths with a large number of official offenses.

Following their extensive research, Weis and Sederstrom draw a general conclusion about the question of existence of unique patterns of serious and violent delinquency:

> In general, the data on delinquent behavior -- both official and self-report measures -- support the emphasis of the 1980 Amendments to the JJDP Act on "serious crime" among juveniles. Juveniles are actively involved in the kinds of serious crimes defined in the Amendments -- primarily UCR index crimes. Juveniles are involved in both serious property and violent crimes, with much more typical involvement in the former than the latter. These types of serious delinquent acts are intercorrelated, meaning that youngsters who are involved in serious crime are involved in a variety of serious crimes, as

---

*Those who admitted having committed at least three serious property or violent offenses in a given year.

well as less serious crimes, rather than specializing in single offense types or in property or violent categories. If there is specialization, it is not behavioral but differentiated in terms of frequency and seriousness of offenses. One category of juvenile offenders engages in less serious offenses and the other engages in more serious offenses, and the former does not predict the latter. Rather, those youngsters who commit serious crimes begin their delinquent careers with more serious crimes. The data do not support the popular notion of a unique pattern of juvenile violence, where the offender can be characterized or typified as a "violent offender" on the basis of the variety, frequency, or seriousness of his delinquent behavior. In short, the research supports the Federal emphasis on serious crimes.

2) How chronic are serious and violent juvenile offenders?

This is an important question because of the tendency of some dealing with the problem (and observers) to talk in terms of "career criminals," "chronic violent" juveniles; thus the question raised is: How chronic are serious and violent juveniles, and what proportion of serious offenders do they represent?

Studies of juvenile offender careers have added much to our understanding of the violent juvenile offender. Such studies have revealed that a very small proportion of juvenile offenders account for a startling percentage of serious and violent crimes.

a Wolfgang and Sellin's study of 10,000 Philadelphia juveniles revealed that approximately 15% of the total sample was responsible for 80-85% of all serious crimes; chronic offenders (5 or more police contacts), who constituted 6% of the sample, accounted for 51% of all offenses, 60% of all serious personal and property offenses, over two-thirds of all arrests for violent crimes, and 71% of all robberies. Only 7% of the sample were charged with 2 or more injury offenses.

b Hamparian and her colleagues' study of over 1,000 juveniles born from 1956 to 1960 who had been arrested for at least one personal offense in Columbus, Ohio, indicated that 10.6% of the total sample accounted for 37% of all violent offenses (armed robbery, forcible rape, murder, and aggravated assault). About one-third of the cohort were defined as "chronic" offenders (5 or more offenses). They were responsible for about 45% of all violent offenses. Repetitive violent offenders (2 or more arrests), who represented about 16% of the cohort, accounted for only about

10% of the violent arrests. Only 4% of the cohort were arrested three or more times for a violent offense.

c In the Vera Institute of Justice study, in New York City, of over 500 youth upon whom delinquency petitions had been filed in court, 6.1% committed two or more violent offenses. However, they committed 82.2% of all violent offenses committed by the total sample. Only 3% of the sample were arrested 3 or more times for a violent offense.

d Shannon studied three groups of juveniles born in Racine, Wisconsin, in 1942, 1949, and 1955 (total sample: over 4,000). Approximately 5% of each group was responsible for about 75% of all felony offenses. About 8% to 14% of each group was responsible for all of their group's felonies.

Hamparian and her associates reconstructed some of the tables developed by Wolfgang and his colleagues in an effort to estimate the proportion of the Philadelphia population which consisted of chronic violent offenders. This revealed that chronic offenders accounted for 61% of the violent crime arrests of the entire cohort, and for 70% of the "serious" violent crimes (homicide, rape, robbery, and aggravated assault). The Hamparian group then estimated, based on the Philadelphia data, that, at the most, the subclass of chronic violent offenders is 9.5% of all delinquents and 52.5% of the entire class of chronic offenders.

These studies show that serious and violent juvenile offenders are rather chronic, but that the subclass of chronic violent offenders is extremely small.

3) Does the early delinquent have a long career?

Several longitudinal cohort studies have shown that juveniles who begin their delinquency involvement by engaging in serious crimes tend to continue such criminality.

The Columbus research revealed that, although in the majority of cases an early arrest is not a harbinger of a long succession of crimes (60% of that violent sample ended their careers by age 17), the earlier the delinquent career begins, the longer it lasts -- but not dramatically.

Some recent research has called attention to the possible contribution of the justice system toward maintenance of delinquent careers, through application of formal sanctions. The Columbus study concluded that the development of criminal careers among the juveniles studied was accelerated by incarceration because episodes of incarceration were followed by succeedingly shorter periods between release and next arrest. Similarly, Shannon (in Wisconsin) found an increase in frequency and seriousness of behavior in the periods following those in which sanctions were administered.

4) Do juvenile delinquents progress from bad to worse?

Very little research has been focused on this issue.

Hamparian and her associates concluded, based on their research and literature review, that "support for this notion is at best equivocal. If such a progression can be found, it holds true for an unpredictable minority of cases."

Their research revealed that nearly 30% of their study subjects were arrested only once, another 16%, twice. In 42% of those careers that went beyond two arrests, there was a tendency for violence to appear during the first third of a delinquent career. Some started early and continued their violent careers throughout their adolescence. Among violent repeaters only (those arrested for a second violent offense) over 41% of their second offenses were at about the same level of seriousness as the first one, while 25% were less serious, and 31% more serious. Too few went beyond a second offense to justify a generalization.

Analysis of this slight shift to more serious offenses did not reveal it to be of conclusive statistical significance. The overall conclusion drawn was that "if any tendency can be discerned, we have to conclude that there is a slight probability for violent juveniles to continue at the same level of seriousness, if they do persist in violence." The researchers then remind the reader that the overwhelming majority of this subset committed only one violent offense.

The Columbus researchers also examined the extent to which status offenders progress to serious criminality. They found that 10% of the entire cohort began their careers with a status offense.

Wolfgang and his colleagues found (in a follow-up study of a sample of the original male birth cohort) that, in general, the mean seriousness scores increased with age -- up to age 30. In the juvenile years, the seriousness scores remained relatively low and stable. In the early adult years (18-21) the seriousness scores increased by about 2.5 times and continued to increase up to age 30.

5) To what extent do juvenile criminals become adult ones?

Dr. Marvin Wolfgang and his colleagues at the University of Pennsylvania have explored the issue of the relationship between juvenile and adult criminality. Their work, reported to date, has consisted of analyses of follow-up data (both official and self-reported) gathered on a sample of the original birth cohort of males they studied. In the follow-up study, arrest records were examined for a portion of the sample up to age 30. Self-reported offense data were obtained up to age 26. The major results from those analyses follow.

a 41% of the sample had arrest records beyond age 18; 59% did not.

b Among those who had arrest records beyond age 18 (the 41% group), 35% had a record before age 18, 22% only as juveniles, and 14% before and after age 18. Only 5% had an arrest record only as adults, or after age 18.

c The overall probability of having an officially recorded arrest record by age 26 was .43. However, this probability was reduced to .12 in the absence of a juvenile record.

d The overall probabiliy of having an arrest record by age 30 and .47, or nearly 50%.

Wolfgang and his associates conclude that juveniles who commit serious offenses have a higher probability of committing such offenses as adults than do adults who did not engage in such criminality in the juvenile years.

Other research efforts in this area have produced mixed results. Further investigation of this issue is needed.

6) What is the role of drugs in serious and violent juvenile crime?

Thinklenberg and Ochberg conducted a study from 1973 to 1977 of patterns of adolescent violence among a sample of 95 violent California male youth aged 12-21. At the time of the study, these youth were incarcerated in a California Youth Authority facility. Each youth included in the study had taken the life of his victim or assaulted his victim with a deadly weapon; and was a direct participant in the violent act, and had inflicted wounds.

Tinklenberg and Ochberg's study of these adolescents revealed that 61% of them had used alcohol, either alone or along with other drugs, shortly before committing their assaults. Twenty-nine percent had not used alcohol or other drugs just prior to their offenses; and 9% had used drugs other than alcohol shortly before offending.

Other studies have resulted in findings of relatively high associations between drugs and violent crimes among adolescents. Another study by Tinklenberg of 50 assaultive youths in the CYA in 1971-72 revealed that 41% of that sample had used alcohol, and 23%, other drugs, just prior to their assaults. Molof found that drinking delinquents (again, a CYA population) committed significantly more violent crimes than did abstainers.

Wenk and Emerich's study (1975) of another CYA population (average age: 19) revealed that nearly one-third of the violent habitual offenders had a history of severe alcohol abuse, compared to about 12% of their non-violent counterparts. Only 40.5% of the violent habitual offenders had no alcohol abuse in their backgrounds compared with 63.2% in the non-violent habitual offender group. Nearly 40% of the admission offenses perpetrated by violent habitual offenders were carried out while under the influence of alcohol (versus about 16% of the non-violent habitual offenders). Wenk and Emerich found that other drugs were less prevalent in conjunction with violent offenses. About 15% of the violent habitual offenders had a history of moderate to severe non-alcoholic drug misuse. Non-violent habitual offenders were about three times as likely to have committed their admission offense while under the influence of such drugs as violent habitual offenders. Among this latter group, opiates were the most frequently used non-alcoholic drug: about 8% had a history of such use.

These studies document the substantial association of alcohol and other drugs in serious and violent youth crime. However, the dynamics of such drug use requires further investigation.

7) Can serious and violent juvenile criminality be accurately predicted?

Predictive instruments applied to delinquency in general have produced unacceptably high rates of false predictions. At this point simple extrapolation is superior to causal prediction methods developed to date.

It was noted earlier that differentiation between characteristics and behavioral patterns of serious and violent juveniles is very difficult. The most useful category is offender specialization by seriousness of involvement in crime; that is, frequency and seriousness of record.

Several large-scale studies of serious juvenile crime support the existence of "frequency specialization" among serious delinquents. The chronicity of a small proportion of serious offenders was documented in the response to the second question above.

Yet reliable scientific prediction of violence by individuals remains an elusive goal in most instances. John Monahan has conducted a thorough review of efforts to predict violent offenses among juveniles. He concluded that, although past violence is the best predictor of future violence (though not a good predictor), our present ability to predict which juveniles will subsequently engage in violent crimes is poor.

Of course, long histories of serious and violent offenses among juveniles serve as an adequate basis for predicting future criminality. Consider the finding of Wolfgang and his colleagues that the probability that an offender (juvenile or adult), after his fourth offense, will recidivate is about 80%. However, the likelihood that his next offense will be a serious one (and the subsequent 16 offenses), is less than 50%.

A major aspect of the prediction problem is that, among juveniles, the commission of a violent offense is not necessarily followed by another one; rather, violent juvenile offenses are almost randomly distributed in the total array of offenses.

Much work remains to be done before juvenile violence and serious criminality can be effectively predicted.

B. DISCUSSION SUMMARY

Panelists provided additional information and raised issues in the discussion following Dr. Howell's presentation. A summary of those follows:

- In some but not all areas of the country serious juvenile crime is increasing.
- It is difficult to generalize about the serious juvenile crime problem to the country as a whole. The extent of the problem appears to differ by geographic region, urban vs. rural characteristics, and the racial composition of the population.
- The juvenile gang problem has abated in some areas (e.g., Philadelphia) and increased in others (e.g., Los Angeles).
- There is a disparity in the data from different sources about the extent of the problem. Estimates of the number of juvenile crimes considered violent range from 44,000 (UCR statistics) to 30,000,000 (self-report data) for one year (1979).
- The question was asked, "Is there increased involvement of adults in juvenile crime?" The extent of this phenomenon was not established and this issue generated other questions, including: What is the best way to proceed with prosecution and adjudication when adults are involved in juvenile crime? Should adults and juveniles be treated the same way? Should adults receive heavy sanctions for involving a juvenile in a serious crime? Should the juvenile be immune from prosecution in this circumstance?
- The public perception is that the juvenile justice system is lenient with serious juvenile offenders. Panelists indicated this was true in some jurisdictions but not others. In some cities being waived to adult court as a "first offender" guarantees a light sentence or probation; the same youngster in this jurisdiction's juvenile system would receive more stringent treatment (bond vs. detention and probation vs. incarceration). In other cities panelists indicated the juvenile system does lack the ability to punish, and deserves its weak reputation.

- The general question was raised, "Is waiver (transferring juveniles to adult court) an effective mechanism to deal with serious juvenile offenders?"

II. PROCESSING OFFENDERS: AN EMPIRICAL REVIEW OF CURRENT PRACTICES

The purpose of the following two presentations and the subsequent discussion was to familiarize participants with current national practice regarding serious juvenile offenders in juvenile and adult courts. Both presentations follow in their entirety. Key issues raised in the discussion are summarized in the final section of this chapter.

A. LEGISLATION AND JUVENILE COURT PROCEDURES: "DEALING WITH SERIOUS, REPEAT JUVENILE OFFENDERS: AN EMPIRICAL REVIEW OF CURRENT PRACTICES"

John L. Hutzler
Howard N. Snyder
National Center for Juvenile Justice
Pittsburgh, Pennsylvania

The following report was prepared by the National Center for Juvenile Justice, the Research Division of the National Council of Juvenile and Family Court Judges, Pittsburgh, Pennsylvania, and was supported in part by Grant Number 78-JN-AX-0027 and Grant Number 79-JN-AX-0027 from the National Institute for Juvenile Justice and Delinquency Prevention, Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice.

Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice.

Copyright July, 1981, National Center for Juvenile Justice, Pittsburgh, Pennsylvania.

The major issues presented to the participants in this forum are: "What can be done to deal with the serious violent and repeat juvenile offender?" and, perhaps more importantly, since that question may remain unanswered, if not unanswerable, "Who should decide what is to be done with him?"

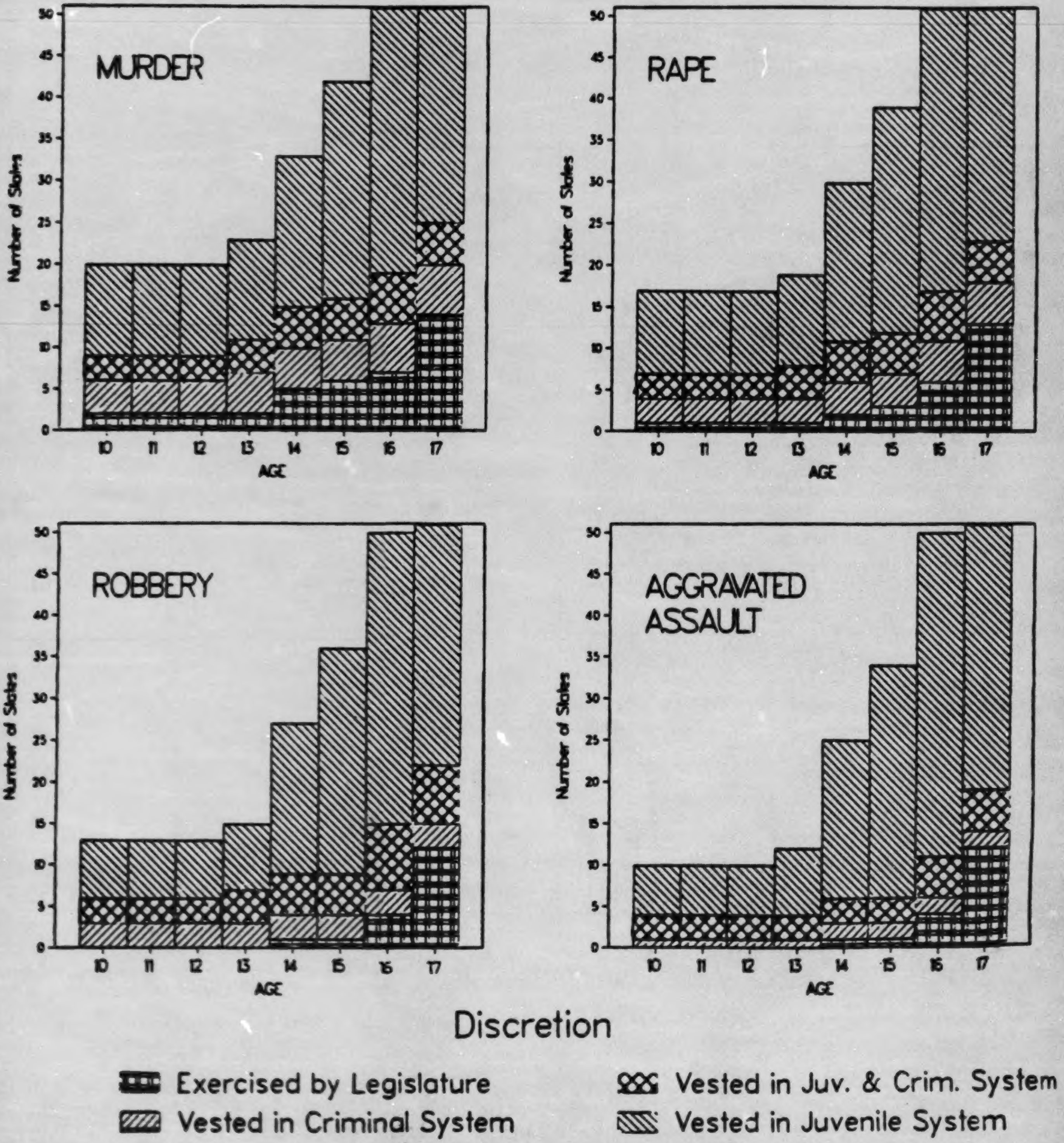
Since the group of participants gathered here was to be dominated by juvenile court judges and criminal court prosecutors, we thought one question that just might arise is whether such juvenile offenders should be proceeded against in the juvenile court or prosecuted as adult criminals, and the corresponding issue of who should decide that question.

As a starting point, we felt an examination of existing statutory provisions for prosecution in criminal court of persons under age 18 charged with serious offenses would be of value. The comparative analyses of state legislation on transfer between courts and exclusion of offenses from juvenile court jurisdiction detail the incredible variety of provisions around the country. The specifics of various alternatives, such as an upper age of juvenile jurisdiction less than 18, exclusions of certain crimes from juvenile jurisdiction for certain ages or all ages, exclusive jurisdiction, concurrent jurisdiction, presumptive waiver, mandatory waiver, legislative waiver, judicial waiver, waiver back provisions - all of these may be profitably debated by you who are most familiar with the advantages and disadvantages of the specific provisions under which you operate.

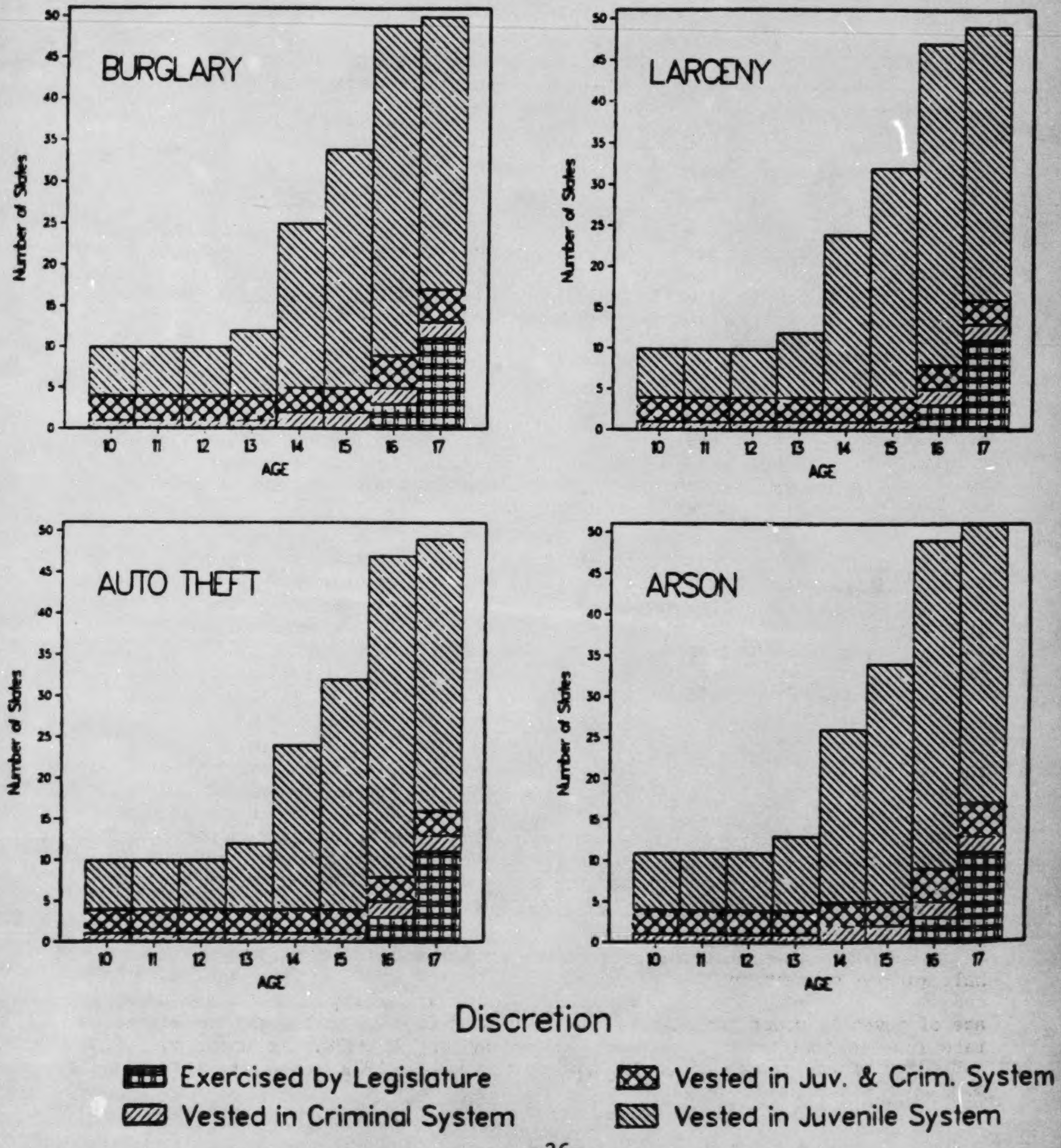
Our purpose here is to provide a national overview as a background from which such a discussion may evolve. In doing that, we have focused in the question of "Who decides?" and, in that context, all of the legislative alternatives listed above boil down to three - either the legislature has decided the matter for a class of offenders, or it has delegated, either to the criminal justice system or to the juvenile court, the authority to decide on a case by case basis whether a juvenile is to be tried as an adult.

The eight graphic illustrations which follow detail for each UCR Index offense and each age group 10 through 17 the number of states providing for such an offender to be tried as an adult in criminal court. I will review the graph for murder in detail. There are essentially the three alternatives just described. First, the legislature may determine that a particular class of offenders must be tried in criminal court. Such provisions as New York's exclusion of all persons over 16 from Family Court jurisdiction and Delaware's exclusion of all murder from juvenile court jurisdiction are represented by the plaid, or lowest, area of the graph. Second, the legislature may delegate to the prosecutor, grand jury, and/or criminal court its authority to decide whether or not a juvenile charged with murder shall be tried as an adult. Such provisions as New York's Youthful Offender Law as it applies to juveniles 13 to 15 charged with murder, Pennsylvania's reverse waiver of homicide, and Nebraska's prosecutorial discretion are represented by the next level of the graph. The third alternative, traditional juvenile court waiver, represented by the top shaded area of the graph, vests exclusive discretion in the juvenile court. (The cross-hatched area represents those few cases in which overlapping provisions place discretion in both the juvenile and criminal systems, and the unshaded area, of course, represents those states in which such offenders may, under no circumstances, be prosecuted as adults.)

Number of States Providing for Criminal Trial of Persons Aged 10 to 18 Charged with Violent Crime



Number of States Providing for Criminal Trial of Persons Aged 10 to 18 Charged with Property Crime



Now that you are familiar with the shading scheme, you will see at a glance from the graphs for all offenses:

> First, that most states (virtually all for violent crimes) provide some avenue to criminal court for serious juvenile offenders over 15 years old;
>
> Second, that across all offenses and all ages, the juvenile court is charged with deciding whether juveniles may be prosecuted as adults more often than all other options combined. However, the more serious the offense, and the older the offender, the more likely it is that the legislature will insist upon criminal prosecution or permit the criminal court or district attorney to elect the forum.

Since juvenile court waiver is the most common legislative provision for criminal prosecution of serious juvenile offenders, we analyzed our sample of 360,000 juvenile court cases so that we might inform you on the extent of juvenile court waiver and variations in waiver rates across jurisdictions with different statutory provisions.

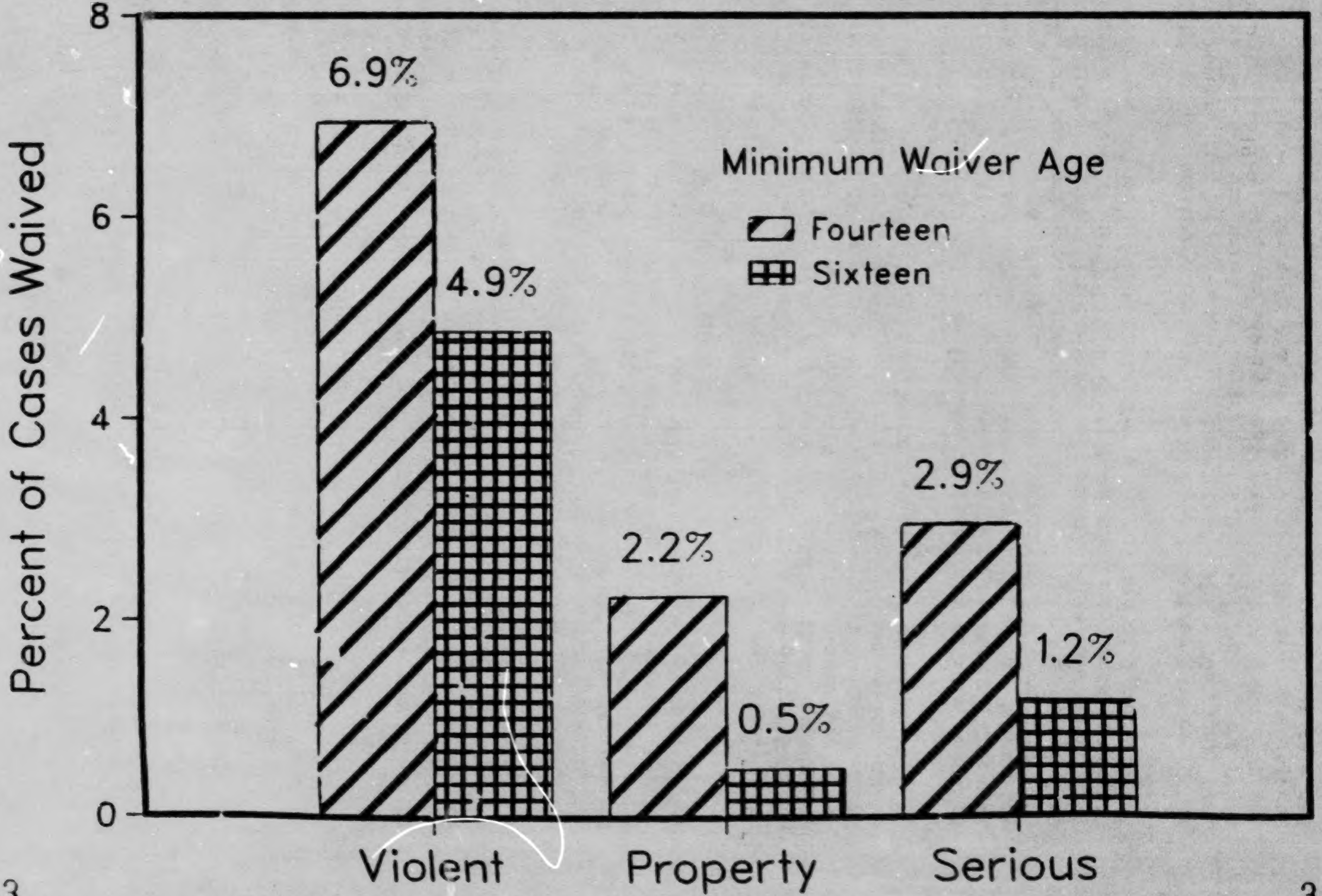
Our sample of cases was about equally divided between 163 courts in states with a minimum waiver age of 16 and 416 courts in which juveniles as young as 14 may be waived to criminal court. An analysis of the case records of 70,000 serious offenders, aged 16 and 17 (offenders, keep in mind, who were eligible for waiver in all the courts in the sample) revealed that a substantially higher percentage of these offenders were waived to criminal court by courts who could waive even younger children.

This suggests that the 16- or 17-year-old offender may appear less amenable to juvenile court treatment to a judge who exercises that discretion in regard to younger offenders as well, than to a judge whose amenability standard is derived from his experience with older offenders only. Thus, amenability to treatment appears to be a relative concept. If a judge has had experience with waiving a 14-year-old offender, it may be easier for him to conclude that a 16-year-old serious offender should be tried as an adult.

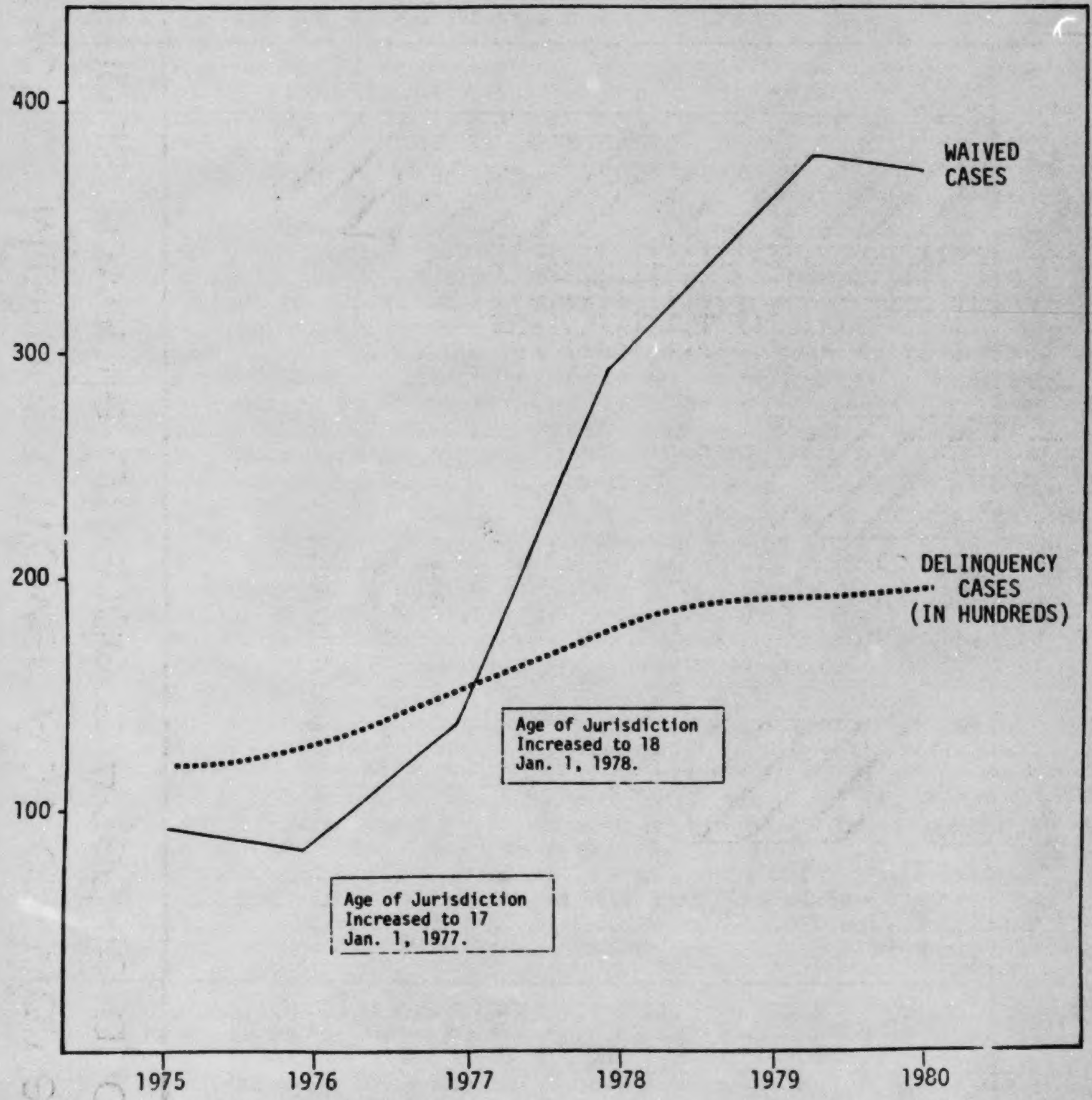
The state of Alabama provides an interesting case study of this theory of the relativity of judicial perceptions of amenability to treatment. The next graph depicts trends, from 1975 through 1980, in the volume of delinquency cases disposed of by juvenile courts in Alabama and in the number of such cases waived for criminal prosecution. (Please note that the dashed line represents delinquency cases in hundreds of cases, while the solid line represents cases waived in units. The point where the lines cross represents one case waived per 100 delinquency cases, for a waiver rate of 1 percent.)

The graph shows that the waiver rate in Alabama rose from just over one-half of one percent in 1976 to nearly two percent in 1979. Two significant changes in Alabama law are noted on the graph. On January 1, 1977, the upper age of juvenile court jurisdiction was increased from 16 to 17, and the waiver rate rose to just under 1 percent; and on January 1, 1978, the upper age of jurisdiction was increased to 18, and by the end of 1979 the waiver rate had doubled again to nearly 2 percent.

Effect of Minimum Waiver Age on Waiver of Serious Juvenile Offenders Aged 16 and 17



Impact of Increase in Age of Jurisdiction on Number of Cases and Waiver of Cases in Alabama



Of course the increase in upper age of jurisdiction brought to the court older, more serious offenders, and one would expect both the number and percent of cases waived to rise as a result. However, in 1979 Alabama juvenile courts waived 6.4 percent of the 16- and 17-year-old serious offenders who came before them, while the waiver rate for such offenders in the rest of our sample was only 1.8 percent.

These data suggest that juvenile court judges in Alabama, accustomed to dealing only with younger less serious offenders, perceived more of the older serious offenders as unamenable to juvenile treatment, than judges in states where the upper age of jurisdiction has remained at 18 for many years. The 1980 data for Alabama, if it represents the beginning of a return to more normal waiver rates, may indicate that once judges become accustomed to dealing with older more serious offenders, and programs for such offenders are developed within the juvenile system, perceptions of their amenability to juvenile treatment may change.

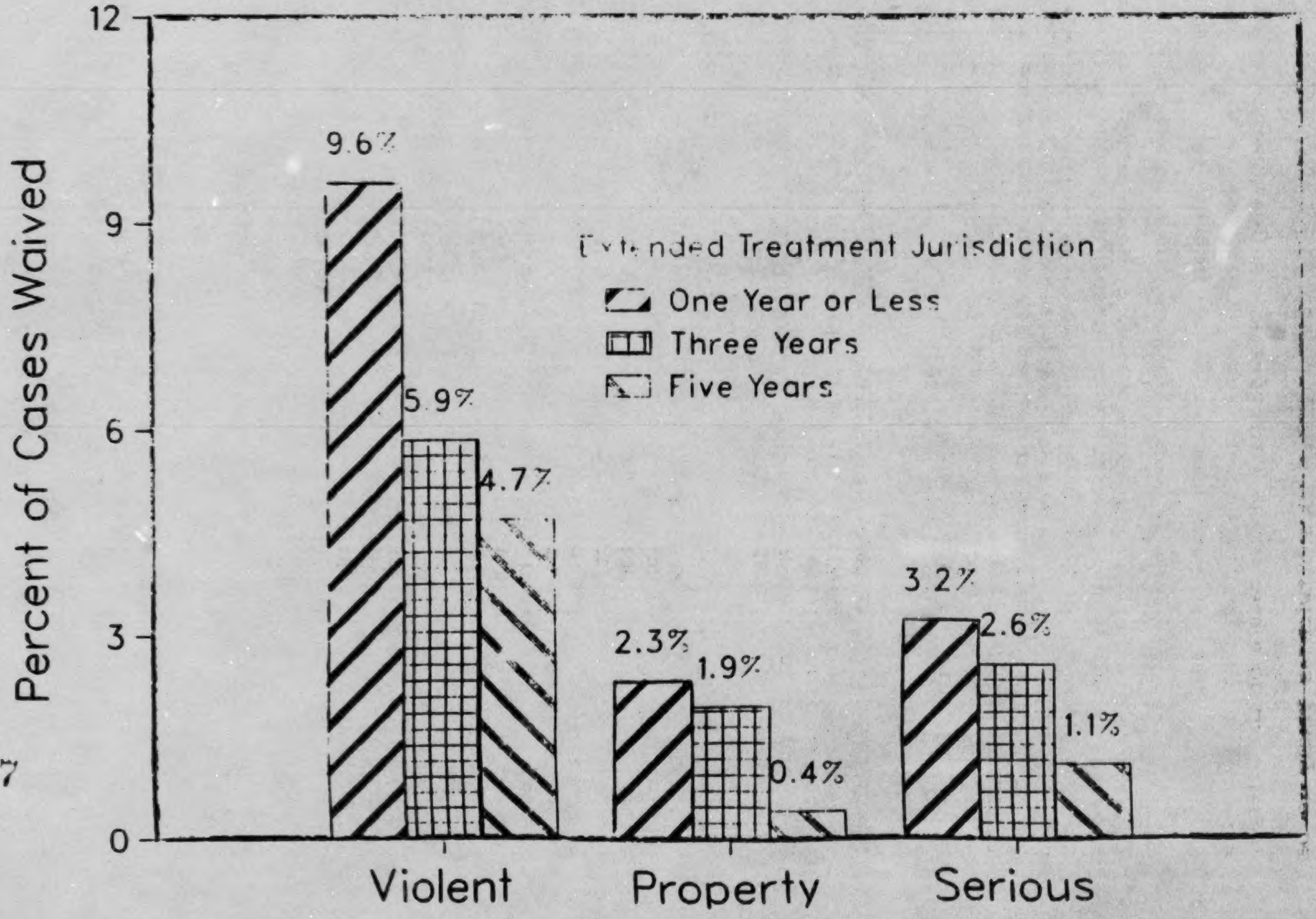
We analyzed the same group of 70,000 Index offenders to examine the impact upon the amenability standard of legislation providing for extended juvenile court treatment or correctional jurisdiction beyond the upper age of delinquency jurisdiction. As the next figure shows, 16- and 17-year-olds charged with murder, rape, robbery, and aggravated assault, who appeared before juvenile court judges aware that their jurisdiction over such offenders would end at age 18 or 19, were waived about twice as often as similar offenders in courts with extended treatment jurisdiction to age 21 and beyond, suggesting that *availability of* or *for* treatment may be a crucial element in the concept of *amenability to* treatment.

The state of Arizona provides additional evidence of the effect of extended treatment jurisdiction on waiver rates. A decision of the state Supreme Court in December, 1979, invalidated Arizona legislation providing for extended treatment jurisdiction over adjudicated delinquents to 21 years of age, and required that they be unconditionally released at age 18. Following that decision, waivers to criminal court doubled.

Not only are juvenile court judges most likely to hold the key to the criminal courtroom for serious juvenile offenders but, as the next table shows, juvenile courts dispose of an estimated 61 percent of all arrests of persons under age 18 for Index offenses. And more than 90 percent of all arrests of persons under age 18, referred to *any* court by police, are referred to juvenile court. Clearly, although a very small part of the juvenile court caseload involves violent offenders, it is to the juvenile court by a wide margin that the justice system directs the problem of the serious, violent, and repeat juvenile offender. How then does the juvenile court system deal with these cases?

The next figure demonstrates the differential handling of juvenile offenders by the juvenile justice system based on the nature of the offense. It clearly indicates that the juvenile court deals most severely with the violent and serious offender. Violent offenders are twice as likely to be detained, far more likely to be petitioned to court, least likely to be dismissed, five times more likely to be waived to criminal court, and twice as likely to be institutionalized, as any other offender category.

Effect of Extended Treatment Jurisdiction on Waiver of Serious Juvenile Offenders Aged 16 & 17



ESTIMATED PROPORTION OF JUVENILE ARRESTS DISPOSED OF BY JUVENILE COURTS

	Total Arrests of Persons Under 18[1]	Total Cases Disposed of by Juvenile Courts[2]	Cases/Arrests %
FBI Index Offenses			
Murder and Non-negligent manslaughter	1,800	1,100	61.1
Forcible Rape	5,000	2,600	52.0
Robbery	44,400	24,500	55.2
Aggravated Assault	43,000	31,700	73.7
Burglary	245,400	168,200	68.5
Larceny-Theft	478,700	263,500	55.0
Motor Vehicle Theft	76,200	55,700	73.1
Arson	9,700	6,300	64.9
Violent Crime[3]	94,200	59,900	63.6
Property Crime[4]	810,000	493,700	60.6
Crime Index Total[5]	904,200	553,600	61.2
Non-Index Offenses[6]	1,406,400	753,200	53.6
TOTAL	2,310,600	1,306,800	56.6

POLICE DISPOSITIONS OF JUVENILE ARRESTS[7]

Total	Handled Within Department and Released	Referred to Juvenile Court	Referred to Other Court	Referred to Other Agency
100.0%	34.6	57.3	4.8	3.3
2,310,600	799,500	1,324,000	110,900	76,200

---

[1] Extrapolation of total reported arrests of persons under 18 from Crime in the United States, 1979, Table 32, representing estimated population of 204,622,000 to estimated U.S. total population of 220,584,000.

[2] From Delinquency 1979: United States Estimates of Cases Processed by Courts with Juvenile Jurisdiction, National Center for Juvenile Justice, 1981.

[3] Violent crimes are offenses of murder, forcible rape, robbery, and aggravated assault.

[4] Property crimes are offenses of burglary, larceny-theft, motor vehicle theft, and arson.

[5] Includes arson, a newly established index offense in 1979.

[6] Police are the source of referral for an estimated 93.2% of all index crimes disposed of by juvenile courts, but only 78.7% of non-index offenses.

[7] Percents are from Crime in the United States, 1979, Table 54, and were applied to the estimate of total arrests.

Copyright, National Center for Juvenile Justice, 1981

JUVENILE COURT SYSTEM PROCESSING

Reason for Referral	Source of Referral	
	Police	Other
Violent	92.4%	7.6%
Property	93.3	6.7
Part II	86.8	13.2
Status	61.3	38.7

Reason for Referral	Detention	
	Yes	No
Violent	42.4%	57.6%
Property	21.8	78.2
Part II	20.3	79.7
Status	15.2	84.8

Reason for Referral	Manner of Handling	
	Without Petition	With Petition
Violent	21.5%	78.5%
Property	45.0	55.0
Part II	55.0	45.0
Status	62.5	37.5

Reason for Referral	Disposition				
	Waived	Institution	Probation	Other	Dismissed
Violent	3.9%	17.7%	36.1%	5.8%	36.5%
Property	0.7	9.4	43.8	4.4	41.7
Part II	0.4	6.2	35.7	4.5	53.2
Status	0.0	6.1	41.1	5.1	47.7

Proportionality of disposition is an issue which has been hotly debated at least since the first drafts of the IJA-ABA Standards were released. The juvenile court has sometimes been criticized by prosecutors for its lack of proportionality in sentencing, and juvenile court judges have vigorously opposed standards which would require a punishment that fits the crime rather than a disposition tailored to the needs of the child.

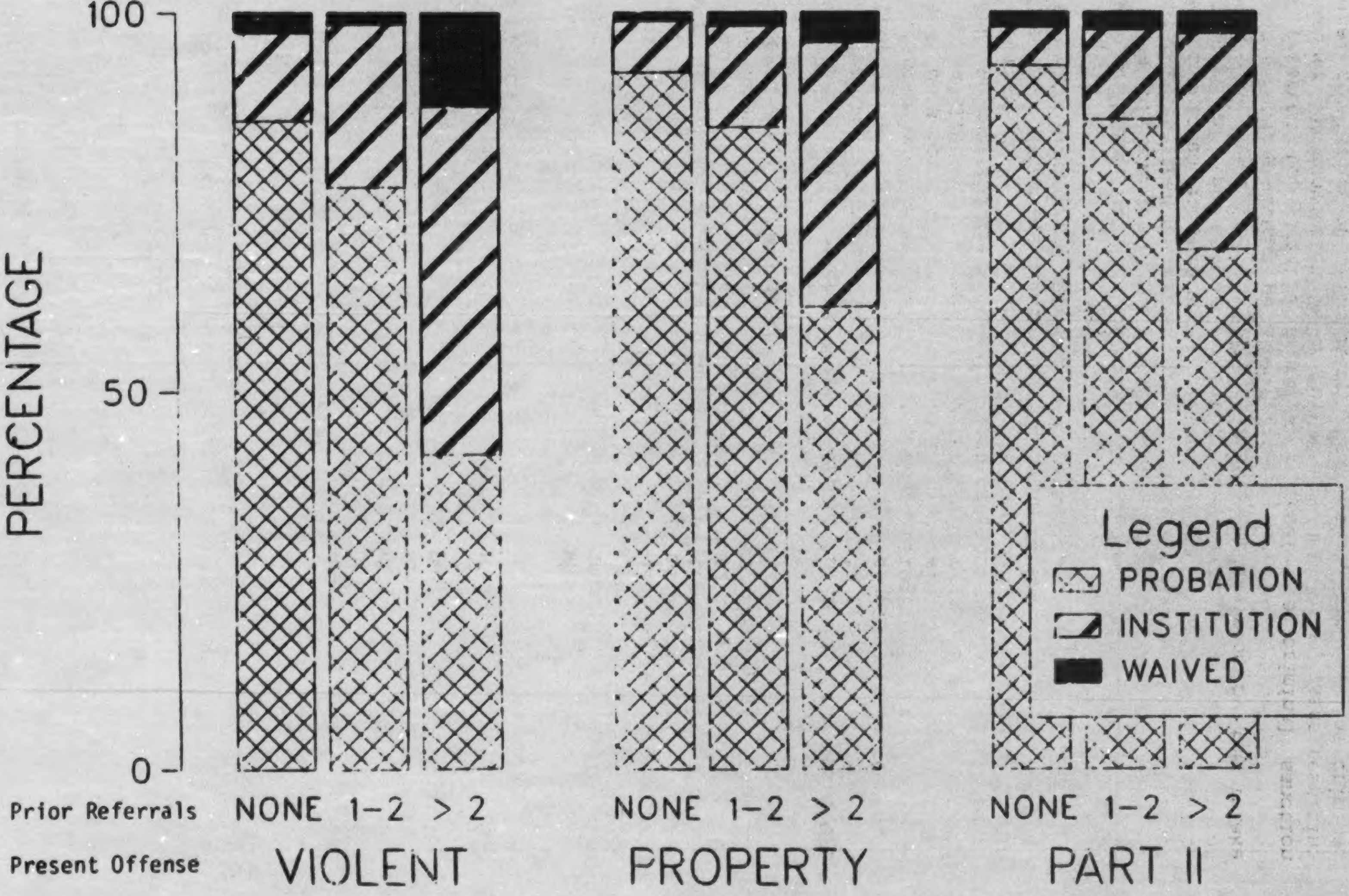
Our analysis of delinquency dispositions suggests that the basic premise of both parties to this debate may be mistaken. We have found a child's prior record of delinquency referrals and the nature of his present offense to be far more predictive of the court's disposition than any other variable examined. The next graph illustrates the effects of prior record and present offense on the disposition. Within each offense category, the more severe dispositions of waiver to criminal court and institutionalization were used much more frequently in cases in which the offender had a prior record of more than two delinquency referrals. In addition, the more serious the present offense was, the more severe was the dispositional pattern across all prior referral categories. Nearly 60 percent of violent juvenile offenders with more than two prior delinquency referrals were institutionalized or waived for criminal prosecution.

Finally, returning to the initial question of whether serious juvenile offenders should be handled in the juvenile or criminal systems, we have attempted to develop a comparison of criminal and juvenile justice system processing of serious offenders. Donna Hamparian will be reporting to you on the findings of her study regarding criminal court handling of that select group of serious juvenile offenders waived to criminal court. We wanted to examine the question of how might the criminal courts be expected to deal with the general population of serious offenders over age 15 presently handled by the juvenile justice system.

The only multi-jurisdictional data available to us on criminal court processing of serious offenders was the INSLAW report "A Cross-City Comparison of Felony Case Processing" which is based on data developed by the Prosecutor Management Information System (PROMIS) in 1977. Using that report and our juvenile court data base, we have developed the following illustration of the flow of 1,000 adult felony cases through the adult criminal system and the flow of 1,000 serious offenders over 15 years old through the juvenile court system. Although the populations are not precisely comparable, it is reasonable to assume that the criminal justice system would, if anything, deal less severely with juvenile offenders than the adult felons.

The data indicate that the juvenile court system is far more likely to take some form of action in its most serious cases than is the criminal justice system. Less than 40 percent of adult felons referred to the district attorney are convicted and sentenced by the criminal courts. In contrast, some 55 percent of the serious juvenile cases result in some form of supervision or incarceration, including informal supervision by the intake office of cases handled without petition. In addition, another two percent of the cases referred to juvenile court will receive a criminal sanction following waiver and conviction in criminal court. Of those cases resulting in a criminal conviction or delinquency adjudication, however, the criminal

Effect of Present Offense and Prior Record on Juvenile Court Dispositions



COMPARISON OF CRIMINAL AND JUVENILE COURT HANDLING OF SERIOUS OFFENDERS

CRIMINAL[1]		JUVENILE[2]
Of 1,000 Felony Offenders Referred to District Attorney:		Of 1,000 Serious Juvenile Offenders (over 15) Referred to Juvenile Court:
338	Rejected at Screening	374 (Note: 109 placed on informal probation)
662	Filings	626

* *

Of 662 Filings:		Of 626 Filings:
270	Dismissed, Acquitted, "Other"	163
392	Conviction, Adjudication	441
	Waived to Criminal Court	22
	← 20 Convictions	

* *

Of 392 Convictions:		Of 441 Adjudications:
170	Probation or Fine (No Incarceration)	329
222	Incarceration or Institutionalization	112

Sources:

[1] A Cross-City Comparison of Felony Case Processing, Kathleen B. Brosi Institute for Law and Social Research, 1979.

[2] National Data Archive, National Uniform Juvenile Justice Reporting System Project, National Center for Juvenile Justice, 1981.

court is more likely to sentence the adult felon to incarceration (56.7 percent of convictions) and the juvenile court more likely to impose probation (74.6 percent of adjudications). Thus, although the criminal system incarcerates about twice as many of its 1,000 adult felony cases as the juvenile court does its 1,000 Index referrals, 570 of the juvenile referrals will result in some form of sanction or supervision, as compared to only 392 of the adult felony referrals.

In summary, our analysis of juvenile codes and juvenile court data on the handling of serious juvenile offenders supports the following conclusions:

> Almost every state provides some avenue to criminal court for serious offenders over 15 years old.
>
> In most states the legislature has given the juvenile court authority to decide whether a serious juvenile offender should be prosecuted as an adult; however, the more serious the offense and the older the offender, the more likely it is that the legislature will insist upon criminal prosecution or permit the criminal court or district attorney to elect the forum.
>
> Most violent, serious, and repeat juvenile offenders are handled by the juvenile, rather than criminal, justice system.
>
> In general, juvenile court judges appear to be more likely to waive 16- and 17-year-old serious offenders (a) if they can also waive 14- and 15-year-olds, (b) if they are accustomed to seeing only younger less serious offenders in juvenile court, and (c) if their juvenile system has little or no extended treatment jurisdiction.
>
> The more serious his present offense is and the more prior delinquency referrals a juvenile has, the more likely it is he will be waived to criminal court, or, if adjudicated delinquent, institutionalized. The juvenile court deals most severely with violent, repeat offenders.
>
> Although the juvenile court is less likely to incarcerate, it is much more likely to impose some sanction or supervision upon persons over 15 referred for serious offenses, than is the criminal justice system upon adults referred for felonies.

B. JUVENILES IN ADULT COURT

Donna Hamparian
Fellow in Social Policy
Academy for Contemporary Problems
Columbus, Ohio

I would like to make a few comments about the preceding discussion. First, I would like to refer you to this book: Major Issues in Juvenile Justice Information and Training: Readings in Public Policy. Included in the book is an article on youth in adult court. It is an assessment of the 1978 New York legislation, and it is both an empirical assessment and social policy assessment by two people connected with the juvenile corrections system in New York at the time of the passage and implementation of the law. In addition there are 11 other articles written on the subject of youth in adult courts by outside experts. These include a panel of prosecutors, a juvenile court judge, corrections officials, and academicians. We think that it covers many of the social policy issues that will be discussed today.

There was discussion this morning about referral of youth to criminal court and plea bargaining.

What we found in Massachusetts was that detention was not used for youths who had been bound over already, but for youths who were in the process of being bound over. So that the juvenile who was going through the bifurcated judicial waiver process, after a probable cause hearing and before an amenability hearing, spent somewhere between 6 months and 12 months in detention awaiting the second hearing. Then, after the second hearing, the case was usually not waived. So the matter was handled in juvenile court, but the time in detention was as much as 6 to 12 months awaiting that second hearing. I think that is an interesting phenomenon. We were talking earlier about juvenile waiver being a plea bargaining tool, and certainly in Massachusetts it was being used as that. It was being used to encourage the Division for Youth to find a secure placement within the juvenile system for that youth.

In 1974, Florida changed its law to include 17-year olds within the juvenile system. A very interesting phenomenon occurred, similar to that shown in the dispositional materials presented on Alabama. The number of 17 year olds being institutionalized significantly increased, when they were redefined as juveniles. However, the length of stay and the type of placement also changed. Seventeen-year-old juveniles were handled in juvenile facilities and not in adult facilities. Many more juveniles had an institutional stay (than when they were processed through the adult system). I think that is something that needs to be pointed out. It is something that most people do not know.

Now I would like to describe briefly the study that we did. We conducted a three-phase study, which is almost completed. Hopefully, within the next month or two the report will be ready for the printer.* The first phase was a national survey of every county in the United States on the number of juveniles referred to adult court for trial--through any of what we define as the four mechanisms of referring juveniles to criminal court. The judicial waiver is the most common and is represented in 48 jurisdictions.** Excluded offenses procedures, which are used primarily for very serious offenses are usually started in criminal court. Or, excluded offenses may be defined in the other direction. That is, they can be for very minor offenses e.g., alcohol, marijuana, traffic, fish and game, and other kinds of minor misdemeanors. These minor offenses bring a tremendous number of juveniles into adult courts every year. Criminal court data on this issue are very poor, but from the estimates that we have, we may be talking about a million people a year, under 18, who are handled in adult court for these minor misdemeanors. And jail sentence is a potential disposition in many of the states. Adult jail sentences are not given in all of them; in some states if a jail sentence is the potential disposition, the case has to go back to juvenile court. But in many instances, juveniles are going to jail on minor misdemeanor charges.

The fourth mechanism is concurrent jurisdiction, wherein the prosecutor determines the forum. The decision is made on the basis of specific offenses alone; previous record, specific offenses and age; or all offenses. This is practiced in several states.

In the national census, we asked for frequency information for every county in the United States. From the 10 percent most populous counties in every state and in those counties that referred five or more juveniles to adult court. We asked for more detailed information about age, sex and race as well as sentencing information on criminal court judgment, sentence, and sentence length. We were surprised that we obtained as large a sample as we did, because the data in criminal court are not usually separated into age groups. Once offenders are in criminal court, they are treated as adults and the data are aggregated. We were able to come up with almost a 50 percent sample on the dispositional information. However, it certainly indicates that we need to go back and do hand counts or use some other procedure so we can do some comparisons between the juveniles, the over 18-year-old adults and the juveniles tried as adults.

In the second part of the study, we went into 10 states that were selected on a very stratified sample based on geography, types of waiver or transfer mechanism, population

---

*Published 1982; distributed by Juvenile Justice Clearinghouse.
**We surveyed the fifty states plus the District of Columbia and the federal courts. Vermont also added judicial waiver in 1981.

(large and small), crime problems (no problems, minor problems, very severe problems). In each state, we asked policy makers--judges, prosecuting attorneys, legislators, researchers, advocates--about the effects of trying juveniles as adults: What is the effect on the adult and juvenile criminal justice systems? On the juvenile himself? On the public? What changes should be made? In most of the states, as in almost every state in the Union, there was legislative activity in this area. Consequently, it was not hard to get people talking about what kind of changes should be made or what kind of changes should not be made.

The third part of the study is the policy volume that I have referred to before, where we asked outside experts to address this social policy issue.

I do have to mention that juveniles, as we defined them, are people under 18. We did not use the definition of juvenile as defined by the particular court. In 12 states, 4 have 16- and 17-year olds under the adult system automatically; 8 have 17-year olds in the adult system automatically. Of these 12 states arrest data on 17-year olds or 16- and 17-year olds were the only information available about these under-age adults. This again is a data problem that perhaps needs to be addressed.*

Perhaps the most striking aspect of the data on the national basis is the sheer number of juveniles who have found their way into the adult court system. In a single year, 1978, almost 8,000 judicial waivers were reported. There were under 2,500 concurrent jurisdiction cases. There were almost 1,500 excluded offense cases, and this only took into account 4 months of the new New York law. I would suspect that the 1,500 will now at least double for 1979 because of the passage of the New York law. Over 250,000 youths were arrested and if tried, tried as adults, because of the lower age of juvenile court jurisdiction in 12 states.

Despite the large number of youths tried in adult court, a relatively small percentage of the juvenile population is handled in the adult systems, as reported earlier by John Hutzler. Our data showed that between 1 and 2 percent of the juvenile court filings resulted in referral to adult court. That information was only available from our case study states, where we went in and looked for more detailed information.

Also, referrals to adult court for serious crimes and for violent crimes are a fraction of the juvenile court work flow. We estimated from our data and from UCR data that about 20 percent of all persons under 18 who were arrested for violent crimes during 1978 were handled in adult court; 80 percent of the juveniles arrested for violent crimes were handled within the juvenile court system. We also found very significant state-to-state variations on rates of referrals to adult court. The rate of judicial waiver varied among states from less than 1 per 10,000 juveniles in the general population to over 13 per 10,000. Almost all states had low waiver rates where 16- and 17-year olds, or 17-year olds were in the adult system.

---

*Donna Hamparian indicated that some of this data might change slightly in a final editing of the work she has described here.

What this variation seems to reflect is not only the statutes that are on the books, but also different philosophies regarding what offenses should be subject to adult court jurisdiction. The states with high rates of judicial waiver tend to waive jurisdiction through a broad range of offenses, including minor public order offenses. It may be surprising to most large county prosecutors that a significant number of counties are waiving a large number of very, very minor offenses to adult court.

The majority of youth referred to adult court were 17 years of age, male, and white. Non-white youths accounted for about 39 percent of judicial waivers and a little less of the concurrent jurisdictions. Non-white youths accounted for 70 percent of the excluded offenses, but the data were limited to a very few jurisdictions, so that has to be qualified. Excluded offenses seem to bring more minority youths into the criminal court than any of the other mechanisms.

Most juveniles referred to adult court were not charged with personal offenses. In the judicial waiver, property offenses constituted 44 percent of the referrals and in age-of-jurisdiction cases, 28 percent. Offenses against persons represented a small percentage of the offenses resulting in referrals--10 percent for age-of-jurisdiction cases, 31 percent for judicial waiver cases. Violent offenses accounted for 22 percent of the judicial waivers, 24 percent of the concurrent cases, 90 percent of the excluded cases, and 58 percent of the 16- and 17-year olds in adult court. Public order offenses on the other hand accounted for 17 percent of judicial waivers and 35 percent of the age-of-jurisdiction cases.

Most juveniles tried in adult court are convicted or found guilty. In New York City and Pennsylvania, where excluded offenses provisions predetermine the referral of many youths to adult court, the use of reverse waiver provisions is noticeably larger. In fact, I think the number of cases in New York that were referred back to juvenile court or were dismissed was over 60 percent. The conviction rate for judicial waiver cases was 90 percent, for concurrent cases 93 percent, and the limited data that we had on age-of-jurisdiction dispositions indicated a conviction rate of over 75 percent. So the screening that takes place in judicial waiver cases and in concurrent jurisdictions cases seems to ensure a very high rate of conviction in criminal court. There are just so many hearings going on and so much screening taking place before they ever get to criminal court that the cases are usually pretty strong when they get there.

One of the most startling findings from the study was that youths are more likely to receive community sentences, probation, or fines than correctional sentences -- jail or adult or juvenile correction facilities sentencing -- when tried in adult court through any provision except the excluded offense category, which is a very select category. For judicial waivers, about 55 percent of the cases tried in adult court resulted in probation or fines. Twelve percent resulted in jail sentences and 31 percent in adult corrections, with 2 percent sent to juvenile corrections. Under concurrent jurisdiction cases over 50 percent resulted in fines or probation, 8 percent in jail sentencing, and 37 percent in adult corrections, and again, 2 percent were sent to juvenile corrections.

The data clearly show that juveniles are more likely to receive community dispositions in criminal court, after having been referred from adult court, than an incarcerative sentence. However, there was tremendous variation among states on this. The variation between states showed that states such as Idaho, Maine, Michigan, Nevada, New Jersey, New Mexico, Rhode Island, South Carolina, Utah, and West Virginia seldom used fines or probations for youths judicially waived, but sentenced almost all of them to adult corrections or to juvenile institutions. On the other hand, Iowa, Mississippi, Missouri, North Dakota, Oregon, Washington, and Wisconsin sentenced at least 3/4 of youths judicially waived to the fines or probations. There seems to be a direct correlation between the low percentage of personal offenses and low rate of incarceration.

Another interesting finding was that there are really five or six reasons for juveniles being referred to adult court. The one that people talk about and the one the legislatures narrow in on when they are discussing the issue is the use for juveniles charged with violent offenses, or chronic juvenile offenders who have been through the system over and over again, or those who commit serious property offenses. But we also found a significant number of counties and states who refer juveniles to adult courts because they considered that the juvenile had adopted an adult life style (for example, prostitutes, alcoholics, and petty thieves.) The juvenile courts held that they should not use the scarce resources of the juvenile court on those youths they couldn't do anything about anyhow, who were going to continue their present habits.

In some states, such as Arizona, waiver to adult court is being used for the older juveniles. Arizona loses jurisdiction at 18 and anyone placed in juvenile correctional facilities or on probation is released automatically when reaching 18. These cases are being bound over, because the short sentence available through the juvenile jurisdiction period is not viewed as long enough.

We talked about the minor misdemeanors. I am not quite sure what the advantage is, other than a management advantage, in having these juveniles in the adult system. It certainly doesn't take up resources, it doesn't take up time in juvenile court, it keeps things moving in lesser courts within the adult system. I always thought when I was spending time in juvenile court that juvenile court was very effective in dealing with traffic violations. It scared the heck out of them and they thought twice about going back and violating again. But that's a personal prejudice, and I hate to see traffic out of juvenile court, to be perfectly honest.

The sentence length for juveniles sentenced to corrections through all of the procedures is short for most juvenile offenders. Twenty-five percent were sentenced to 1 year or less. But for a significant percentage (14 percent of those judicially waived), we see maximum sentences of over 10 years, and 2 percent received life sentences. So for the select group of youths who received correctional sentences, many tended to stay a very long time within the adult system.

One other point--in most jurisdictions a juvenile tried as an adult is an adult for correctional purposes. In most states, there is no option. A juvenile who is convicted in adult court will, if incarcerated, be placed in an adult facility. In about a third of the states there is an option that juveniles tried in adult court can be sentenced either to juvenile or adult correctional facilities. Frequently there is a provision by which the criminal court order states the youth will be transferred from juvenile to adult corrections at majority. In a few states, a juvenile convicted in adult court cannot be placed in an adult facility, but must be placed in a juvenile facility and again can be transferred upon reaching majority or upon the order of the criminal court judge. In the 12 states where 16- and 17-year olds are defined as adults, if they are incarcerated, they are incarcerated in adult facilities and there is no option.

Several states have adopted special sentencing or facilities for youthful offenders. The youthful offender may be defined as between 16 and 25 years of age, or 18-20, or some other upper and lower age range. Usually youth under 18 convicted in criminal court are eligible for such sentencing or programming. In addition, several other states are looking at youthful offender legislation as a viable approach for the "younger adult offender."

C. DISCUSSION SUMMARY

The following issues were raised and discussed by panelists in the discussion that followed session the presentations on "Processing Offenders: An Empirical Review of Current Practices":

Donna Hamparian, responding to questions, reported that authorities in adult correctional facilities, when surveyed, were almost unanimous in saying juveniles in adult facilities are management problems. They often require extended periods of protective custody and are often targets of physical and sexual abuse by older inmates.

The question was asked, "Are separate juvenile facilities being set up in the adult system to handle the juvenile population?" Donna Hamparian responded that there are so few juveniles in adult facilities that there are, not surprisingly, very few separate facilities. However, she found that juveniles tend to be placed with younger adult inmates.

The opinion was expressed that removing serious, repeat juvenile offenders from juvenile facilities will return the juvenile system to doing what it does best: working with the first time and petty offender.

The question was asked, "How much judicial waiver of juveniles back to juvenile facilities from adult court occurs?" Donna Hamparian said this seldom occurred because most waived juveniles are 17 and end up being sentenced close to, or after, their 18th birthday.

Donna Hamparian described the following trends in waiver legislation:

- Between 1978-1980 almost half of the states changed some provision of their law.
- No state lowered the age of juvenile jurisdiction. (An unsuccessful attempt was made in Louisiana.)
- Six states raised their age of juvenile court jurisdiction during the 1970's.
- It is now more common for legislatures to define excludable offenses and for the issue of whether a juvenile is amenable to treatment to be removed from consideration in the waiver decision process.

Nebraska's legislation was described by Mr. Ronald Lahners, County Attorney for Lancaster County, Nebraska. The legislation gives prosecutors the right to file certain cases (depending on statutory guidelines concerning the seriousness of the offense, juvenile court record, and amenability to treatment) in either juvenile or adult court. Mr. Lahners, reported that they seldom get waivers returned from filings in criminal court. A discussion of the due process and constitutionality of these procedures followed.

Concern was expressed over the possibility that non-serious juvenile offenders might fall victim to waiver procedures developed by legislative action in response to public concern over serious crime. The constitutionality of the laws was acknowledged, and the opinion was expressed by some participants that juveniles do not have a constitutional right to juvenile court proceedings.

The issue of public safety and crime in the streets was raised. The views were expressed that public safety might not best be served by waiving juveniles to the adult system, and that conference participants should not ignore the real issue of public safety in their discussion of procedures and legislation.

III: LEGAL PROCESSING OF OFFENDERS

The focus of this portion of the proceedings was on the experiences of practitioners regarding legal issues affecting the processing of offenders. Mr. Feld introduced the session and his comments are transcribed in full with his permission. A summary of the key discussion points follows the transcript.

A. INTRODUCTION

An edited transcript of
Barry Feld
Professor of Law
University of Minnesota
Minneapolis, Minnesota

I would like to draw on some of the discussion that we were having this morning, some of the research that is going on concerning issues of adult waiver circumstances and the like, and some of the material that was included in your packet. I would also like to discuss some of the legislative policy issues associated with the question of certification. I ultimately want to conclude with a description of what I perceive to be the virtues of automatic adulthood, or legislative exclusion, as an alternative to judicial waiver for making the decision as to which juveniles are adults.

Now when we talk about certification, and when we talk about waiver, we are really talking about who decides which serious offenders are going to be adults and what are the substantive bases on which those particular decisions are going to be made. For purposes of highlighting the opposition between the two alternative policies available to us, I would like to contrast and compare the judicial waiver process, with which most of you are familiar, and legislative exclusion as an alternative basis for identifying which juveniles are appropriately treated in the adult criminal system.

The judicial waiver process, the traditional rehabilitative juvenile court notion, focuses on characteristics of the offender. Basically, juvenile court judges are asked to make determinations about a juvenile's amenability to treatment and/or dangerousness, in the decision whether or not the particular youth is going to be treated within the juvenile system or transferred up to the adult system. Now I would submit, all of your own experience to the contrary notwithstanding, there is no rational basis on which a juvenile court judge can make a determination as to a youth's amenability to treatment. The fundamental issue of rehabilitation, of what works, calls into question the basic ability to make the kinds of decisions that are required in an amenability determination.

The sort of problems that you are all confronted with--the psychiatrists engaged in a swearing contest, this kid is treatable, this kid is not treatable--are evidence of the underlying bankruptcy of psychiatry as able to contribute to the basic question of whether or not a particular youth will respond to a particular type of treatment program. The issue of predicting dangerousness is even more fraught with danger than the determination of whether or not a juvenile is amenable.

The material in the packet of Monahan's summary of the prediction of violence, the prediction of dangerousness (Monahan, 1977) suggests (and it is a summary of an overwhelming body of literature) that there is simply no clinical basis on which any clinician, psychiatrist, social worker or juvenile court judge can make an even 50-50 prediction of whether or not a particular individual will be dangerous, will be violent, will recidivate in the future.

Monahan also describes alternative bases on which predictions can be made. He distinguished between clinical predictions that require clinicians to make insights into the psychodynamics of the individuals, and actuarial, statistical predictions that rely essentially on correlational tables. We heard descriptions of the kinds of things that correlate with serious chronic, juvenile offenders: age, sex, race, and the like. All of these would be unconstitutional if frontally used as dispositional decision criteria, as would one other predictor of future behavior, which is past behavior (i.e., past evidence of violent behavior, past evidence of chronic behavior). The fact of the matter is, in some of the other data that John Hutzler presented this morning, as a practical, predictable matter most juvenile court judges look to present offense and prior record as the most significant single variables in determining which juveniles are dangerous. This is exactly the kind of information that actuarial tables and statistical decision making would also suggest as a most appropriate basis for making waiver determinations. Now the problems of amenability and dangerousness prediction are not simple. There isn't any rational or scientific basis on which those particular decisions can be made. But the course of granting juvenile court judges the discretion to make those types of decisions is fraught with a whole variety of problems which I would simply characterize as the abuses of discretion.

Donna Hamparian, in her summary of the certification experiences from around the country, has simply suggested what a lot of the research in this area has also suggested: that there is an enormous amount of variety, disparity, diversity (that is, within jurisdictions you get county-by-county and even judge-by-judge variation) in the administration of the certification process. The experience that we've had in Minnesota is that urban youths and rural youths are treated in grossly disparate ways. Rural youths are getting certified much more readily for much more trivial kinds of violations. That is an experience that has been replicated in California and lots of other places.

Now, to the extent that juvenile court judges rely primarily on present events and prior records as dispositional criteria, I would like to suggest that there are a lot of good policy reasons why legislatures should simply take the discretion away from juvenile court judges altogether and simply exclude from juvenile court jurisdiction various combinations of present offenses and prior record. This is legislative exclusion that focuses explicitly on offenses rather than offenders and thereby maximizes attention to public safety, rather than rehabilitating the offender. It does so by directly targeting on serious, repetitive young offenders.

Now there are a variety of policies that a legislature could pursue in targeting on the frequent and persistent juvenile offender. A legislature emphasizing retributive values could exclude serious offenses on that basis alone. A legislature could also target on repetitive offenders by trying to incapacitate the relatively few chronic offenders, who are in fact (as Buddy Howell's summary this morning suggested) also the primary serious crime problem as well. There are lots of good reasons why we want to target on chronic, repetitive offenders. The research of Donna's Violent Few and of Wolfgang's Delinquency in a Birth Cohort (virtually all of the research that looked longitudinally at the development of delinquent careers) has suggested that there isn't offense specialization, that they are robbers one day, burglars the next, a status offender the next, and then back to being homicides. That what we have to target if you want to identify serious offenders--you have to look primarily towards chronicity, toward repetitiveness, toward frequency. Within the experience of frequency, you're also going to pick up most of the serious offenders.

Ultimately, when we are talking about serious offenders, what we are really talking about is a question of dispositions, dispositions within which system. And ultimately, when we are talking about the serious offenders, we are talking about dispositions within the adult system, simply for purposes of public protection. We are talking about creating the perception or the belief that youths sentenced as adults will in fact get longer sentences than would be available within the juvenile system. Now we have also heard a lot of evidence this morning, and there is a lot of evidence, that suggests that we have a problem. The problem occurs at the interface between the juvenile system and the adult system. The problem that we have to solve is to develop a rational response, on both sides of the line, to the chronic and the serious young offender. We have at the present what Professor Wilson and Barbara Boland have identified, and which has been described subsequently, as a punishment gap. When youths leave the juvenile system and enter the adult system, there tends to be about a two-year hiatus between the length of dispositions they would get once they make it into the adult system. Then we have the rationality that adult courts making dispositions of the chronic offenders tend to rely primarily on the adult criminal history as part of the present offense and prior record. Then we have the problem that we end up maximizing our intervention at the later stages of criminal careers when we are essentially dealing with the problems of burn-out rather than targeting in that 16-to-20 age bracket, where we are dealing with the chronic and most active young offenders. This then leads to the argument that what we need to do in order to rationalize dispositions on both sides of the juvenile and adult line is to develop integrated sentencing systems that count juvenile priors within the adult criminal histories as part of the overall dispositions that are made of juvenile offenders sentenced as adults. This in turn is going to raise a whole host of other issues associated with the problems of integrating juvenile records as part of the adult criminal history score.

In Minnesota, in the latest round of legislative revisions, there was a provision to include juvenile priors within the adult criminal history scores as part of the presumptive sentencing guidelines that our legislature recently adopted. It is inadequate to the extent that it fails to count juvenile convictions on a straight one-to-one basis as the equivalent of adult convictions for purposes again of targeting the very frequent chronic, repetitive offenders for purposes of making dispositions.

When I describe what I characterize as the virtues of automatic adulthood, I would like to simply wind it up very quickly with the description of what I perceive to be some of the benefits that would accrue to the juvenile system, as well as to the adult system and to public safety, from making offenses count. I am talking about making offenses count both for dispositions within the juvenile system and within the adult system.

Contrary to Judge Healey's suggestion this morning that the due process in the juvenile system contributes to greater visibility and accountability than, for example, prosecutorial discretion, I would suggest that the juvenile system and the judicial certification process are absolutely unaccountable and totally invisible because of the fundamental, confidentially closed and private nature of juvenile court proceedings. What we have in juvenile courts at present is a fundamentally irrational approach to the problem of targeting and removing from the adult system the chronic, repetitive offenders. By focusing on offenses, we have criteria that can in fact be used to maximize accountability and visibility. By targeting on offenses, we can increase the accountability not only of judges confronted with juveniles, but also the accountability of police officers making diversion decisions, intake workers making diversion decisions, and prosecutors making plea bargaining decisions. Throughout the system there is presently the perception that since there is relatively no relationship between what youths do and what they are going to get, there is really no basis for being too concerned about which particular offense they are adjudicated for, put on informal probation for, and the like.

I suggest that a legislative exclusion that includes both serious present offenses and a component of prior record will place much greater emphasis on considering offenses as well as offenders in making all of the discretionary decisions throughout the system. I also suggest that there is nothing in constitutionality or due process that would suggest the impropriety of counting juvenile offenses, one for one, within adult sentencing history. The U.S. Supreme Court has already told us juveniles get complete, total, equal due process within the juvenile justice system. I would suggest our own experience would dictate the contrary, but the Supreme Court already said it, so it must be right. So there is at least no legal impediment to the notion of full equality of offenses within the criminal justice system. I also suggest that to the extent that the juvenile court has emphasized rehabilitation as its primary goal, it has in a significant way contributed to public disservice. At least one of the other justifications for social control, punishment, what have you, is deterrence, the message that is given to other offenders. We have heard a lot of discussion this morning about the fact that youths can essentially commit crimes with impunity, safe in the knowledge that nothing will happen. By developing a legislative exclusion process targeted to present offenses and prior records, we introduce a degree of certainty, a degree of predictability in the decision-making process that enables judges and, more particularly, juveniles and their peers to have some sense of what subsequent consequences will be, which will ultimately contribute to the rationality of the system on both sides of the line.

B. DISCUSSION SUMMARY

In response to Barry Feld's remarks, the following issues were raised.

The opinion was expressed that individual judges and prosecutors are in a better position to make decisions about individual cases than are legislatures because judges and prosecutors have access to critical individual case information, e.g., criminal record and family background.

A discussion ensued about the deterrent effect of legislative sanctions. Comments were as follows:

- There is currently no direct research on deterrence in the juvenile system.
- A philosophical argument was made that it is unconscionable to try to influence others while scapegoating one--especially when dealing with youngsters.

The opinion was expressed that there is a danger in looking at only a small segment of the juvenile crime problem (e.g., serious, violent offenders) without examining the whole juvenile system. What is needed is a move away from a treatment model to an accountability model so that youngsters know what will happen to them if they commit a crime. In contrast, the opinion was expressed that the juvenile system handles minor offenders effectively and should not be changed entirely to deal with the serious, repeat offender.

The deterrent effect of the perception of toughness of crime was discussed. Andrew Sonner, State's Attorney for Montgomery County in Rockville, Maryland, reported the effects of an anti-burglary media campaign. Ads said that if someone broke into a house, they would go to jail. Burglaries dropped 33 percent and 22 percent in the first and second subsequent months of the project, respectively. This change occurred without changing how burglaries were actually processed.

Other examples were given of the perception factor as it affects deterrence. The view was expressed that the consequences of criminal activity should be publicized. Two issues relevant to publicity as a deterrent were identified: The real consequences of crime have to match the publicized ones, or publicity will fail in the long run; and the confidentiality of juvenile proceedings in some states limits what can be discussed in the media about the juvenile justice system. The point was made that when juveniles are actually being prosecuted for serious crimes, the word does get out to juveniles via "grapevine," or word-of-mouth publicity.

Another issue raised was that police perception of how juveniles are processed affects whether juveniles are arrested. If the police see that nothing comes of juvenile arrests and they are in a position to choose between adult and juvenile arrests, they will ignore much juvenile crime.

In addition to deterrence, other rationales that might influence how serious, repeat offenders should be processed were discussed. These included equity and moral principles. Equity was conceptualized as the situation where consequences are uniformly distributed to criminals who commit similar crimes and who have similar records. The moral principle concept was defined as judging one offense more serious than another and one offender more culpable than another, strictly on a moral basis. Comments were made in response to these concepts that morality and equity do not ensure public safety in the form of safe streets. It was felt that the public, through the legislatures, would continue to attempt to control sanctions if the crime problem is not solved, regardless of equity or morality issues.

The use of legislative waiver was also discussed. Data were presented indicating that there is currently a high correlation among type of offense, criminal record, and waiver rates. The question was asked, if that is so, why is there a need for more legislation? Two responses were made:

- If this is a pattern, it should be institutionalized in legislation to make certain it is applied equitably.
- It should be institutionalized to create the perception as well as the reality that the juvenile justice system handles serious, repeat offenders in a consistent manner.

Concern was expressed that the public image of the criminal justice system has been hurt by simple solutions being promoted and then found wanting and it would therefore be a disservice to suggest that there is any single answer to the crime problem.

Final comment was made in the form of a question: What can we do to make youngsters learn there is a price to be paid for doing something wrong?

IV. NEW APPROACHES

In this session participants were asked to describe effective ways for dealing with serious, repeat juvenile offenders. Participants described existing programs as well as their ideas about new models. A brief report highlighting the models presented and related discussions follows.

A. PRESENTATION OF ALTERNATIVE APPROACHES

Norm Maleng, District Attorney for King County in Seattle, Washington, opened the session by stating that everyone in the room knows what should be done with serious, repeat offenders. He said everyone knows that they should be incarcerated. Therefore, he advised that the question the group should address was how to construct a system that will make that happen, as a general rule.

Mr. Maleng continued by recommending the approach recently adopted in Washington State. A brief description of that approach follows:

> Washington State abandoned a traditional "treatment" model in favor of an "accountability model" two years ago. A new juvenile code was developed that completely revamped the sentencing laws. The new sentencing laws follow a presumptive sentencing approach. The crime and the history of the crime determine the range of sentences available to the judge. Status offenders are entirely removed from the juvenile court. Juveniles who commit criminal acts are classified as serious (they are incarcerated); middle offenders (their sentences are imposed with the most judicial discretion); or minor offenders (they are diverted to community-based accountability boards). Judges who disagree with the sentencing guidelines must submit reasons in writing, declaring a "manifest injustice" would occur if the guidelines were followed.

James Bascue, Project Director of Operation Hardcore in Los Angeles, described this program, which is designed to prosecute juvenile gang-related criminal offenses. According to Mr. Bascue, gang problems have recently escalated in Los Angeles County; 60 percent of the victims are innocent bystanders to gang activities. Operation Hardcore was developed to address this escalating concern.

In Los Angeles County prosecution in juvenile cases was upgraded. Experienced prosecutors are now rotated through the juvenile division, and gang-related cases are handled vertically. Special emphasis has been placed on solving witness problems. For example, special efforts are made to locate victims and to deal with victims who have been intimidated by gang threats.

In addition to these measures, prosecutors meet regularly on a task force with police, judges, and school officials. The police have establisned their own special unit for gang cases. A remaining problem, according to Mr. Bascue and Judge Richard Byrne from Los Angeles County, is that sentencing for these cases is to the California Youth Authority (CYA). CYA has indeterminate sentencing rules and the average length of stay for a juvenile convicted for murder is only 2 1/2 years.

Judge Seymour Gelber, Circuit Judge from Miami, Florida, suggested that it is important to focus on first-time offenders as well as serious repeat offenders to deal effectively with the problem. He suggested a two-tiered system for juvenile court. The first tier of the system would be for those 14 years or younger. Judge Gelber reasoned that the 18-year-olds for whom the juvenile system was originally designed were equivalent to today's 14-year-olds. These youngsters should receive services, ideally provided by private, rather than public, treatment programs.

The second tier of the system should give judges authority to give serious sentences. (Judge Gelber said that the maximum time he can now give a juvenile offender is three months).

Andrew Sonner, State's Attorney from Montgomery County, Maryland, advised against handling juveniles in the adult system when the adult system is ineffective. He said we need to change current perceptions of the juvenile system by making it a tougher system.

Judge Byrne from Los Angeles County suggested that rehabilitation and punishment are not necessarily inconsistent and that minor punishments be viewed as one way to rehabilitate. In this way, some "realism" might be infused into the juvenile court without going so far as to abandon the junvenile court philosophy and run into problems with constitutional objections and jury trials.

A discussion emerged from a comment by James Wilson, Professor of Government at Harvard, that he did not believe there were statistics to support the view expressed by some in the meeting that juvenile court was tougher than the adult system. Barbara Boland, Senior Research Associate, INSLAW, Inc., presented some data from Manhattan supporting the idea that the juvenile court (as represented by the family court in

New York City) obtained many fewer convictions than did the adult court (criminal court in New York City) for the same offenses.

Ronald Lahners, County Attorney, spoke in favor of Nebraska's approach for dealing with serious, repeat juvenile offenders. The approach is to file, dispose, and sentence such cases in adult court, and the court has the alternative to incarcerate in a juvenile or adult facility. A determinate or indeterminate sentence can be given. Prior juvenile records can be used for sentencing purposes in the adult proceedings.

Steven Goldsmith, Prosecuting Attorney, Indianapolis, Indiana, advocated automated case tracking of juvenile as well as adult cases, allowing identification of youth who would qualify for a career criminal approach. He said problem cases should be waived to the adult system. He believes that young adults need to know their offenses will follow them, i.e., that they are accountable for their actions.

The question was asked, "To what extent do prosecutors and judges have routine access to juvenile records?" The audience response was mixed, with some jurisdictions saying yes, others no. Even among those who had access to juvenile records, many had administrative problems getting the records as a matter of routine. Records were sometimes kept elsewhere or sent to one criminal justice agency and not another.

Barbara Boland discussed a study she conducted in New York City. Her study investigated the amount of information a prosecutor and judge typically would have, first with and then without juvenile criminal history information. Among 18- and 19-year-old serious offenders in the adult system, 70 percent were known to have 5-10 prior offenses if juvenile records were available. Fifty percent of these same offenders would appear to have only 0-1 prior offense, if adult records were the sole source of information.

Harry Connick, District Attorney, New Orleans, raised the issue of whether there is room any longer for the concept of juvenile court in this society. He said he found the waiver process time-consuming, expensive, and frustrating. Incarceration lacks teeth in the juvenile system, he said, and consequently people disrespect the system. He recommended that serious juvenile crimes be immediately charged in the public arena of adult court. David Armstrong, Commonwealth's Attorney in Louisville, said that the adult system there is more likely to give probation, while juvenile court can confine up to three years. He underscored that the issue was how to get harsher sentences wherever that might be accomplished, in juvenile or adult court.

Judge Margaret Driscoll, Bridgeport, Connecticut, pointed out that the courts only deal with a small group of juvenile offenders after other parts of the system have acted, e.g., police and prosecutors. She said that if punishment is to come with certainty, these areas also need to be considered. Building on this point, Judge Byrne stressed the need for communication among different sections of the criminal justice system.

Barry Feld suggested a model for dealing with offenders based on their probability of recidivating. He said that 43 percent of all first offenders do not have a second offense; 39 percent of all second offenders do not have a third. He recommended that nothing be done with these groups. After the third and fourth offenses, when the probabilities of reoffending rise, he suggested rehabilitation programs. After the fifth offense, when the probability of reoffending reaches ".8", Dr. Feld suggested "writing them off."

The session ended with comments that the adult system is not a cure-all for serious, repeat juvenile offenders and that prosecutors and judges cannot alone stop the revolving door that often returns serious juveniles to the community too quickly.

V. EVALUATING OPTIONS: REHABILITATION vs. COMMUNITY PROTECTION

In this session participants considered broad issues affecting what should be done with serious, violent juvenile offenders. This was the last session before recommendations were debated, and there was considerable discussion about what the end product of the meeting should be. A brief review of the key points discussed during this session follows. A discussion developed about the role of rehabilitation in dealing with serious, repeat juvenile offenders.

- The view was expressed that rehabilitation is important to the concept of community protection. Changing serious offenders before and during their reentry into society was seen as very much a part of keeping streets safe.
- Romae Turner Powell, Juvenile Court Judge from Atlanta, said she believed there was a lack of concern for serious juvenile offenders as people. She added that the juvenile system was created because of problems found in treating juveniles in adult facilities and that this is still a problem. She said locking youths up is not the solution.
- Judge Powell also said the serious, violent offender population is primarily a minority (racial) group. She expressed the opinion that if white youths were the ones with these problems, programs and resources would be discussed, not just lockup.
- Doug Dodge, OJJDP Project Monitor for the Violent Juvenile Offender Research and Development Program, gave a report on the goals of this federally funded research project. The emphasis, he said, is on continuity of juvenile services for violent offenders (e.g., murder, rape, sodomy, arson, aggravated assault, kidnapping, and armed robbery). Five cities will receive money for developing approaches with continuity among services. An independent evaluation component has also been funded by OJJDP.

69

- The point was made that jobs and supervision in the community were essential to the successful reintegration of serious, violent offenders into the community.

- The role of the federal government and the conference in advising or regulating state activity was discussed. John F. Mendoza, Judge, Las Vegas, Nevada, said that Nevada studies indicated that citizens are satisfied with their juvenile system and that a federal solution would not work everywhere. He suggested the federal government come to states with alternatives and not one or two solutions.

  This view, that individual jurisdictions differed and that solutions for urban centers will not apply across the country, was echoed by other participants.

- An attempt was made to define areas of concern to most geographic areas. Two were identified:

  Conflicts among correctional facilities staff about where to incarcerate serious juvenile offenders absorbs resources that could otherwise be used on more common types of juvenile offenders; yet juveniles are management problems in adult facilities.

  Lack of training for many prosecutors who try cases in juvenile court.

- The view was expressed that the federal government should establish as a priority a continual search for good juvenile rehabilitation programs through rigorous research. Current research was seen as inadequate to identify which programs work, which do not, and which do more harm than good.

- The problem of public perceptions of juvenile crime being created by the press describing single case horror stories was discussed. A consensus was reached that there should be data collection systems in both the juvenile and the adult systems to provide accurate information for informing the public and for planning.

VI. RECOMMENDATIONS AND FURTHER QUESTIONS

A Reporters Committee* was formed to propose a list of recommendations based on discussions during the conference. These recommendations were presented to the participants, discussed, and voted on during the final conference session. The final approved list of recommendations follows in section A of this chapter. A summary of the discussion about each proposed recommendation follows in section B. Section C is a list of questions that the Reporters Committee indicated were important but unresolved issues raised by the participants at the meeting.

A. RECOMMENDATIONS

The following recommendations were accepted by the consensus voting of participants, July 31, 1981:

1. Serious, repeat and/or violent juvenile offenders should be singled out for special attention by the criminal justice community.
2. Further research on the extent of juvenile involvement in serious, repeat and/or violent criminal activity should be conducted in order to provide the data to make informed policy decisions.
3. Diverse approaches for dealing with serious, repeat and/or violent offenders should be tried and independently evaluated.

---

* The Reporters Committee included The Honorable Edward Healey, Judge, Rhode Island Family Court; The Honorable Andrew L. Sonner, States Attorney, Montgomery County, Maryland; Dr. Howard Snyder, National Center for Juvenile Justice, Pittsburgh, Pennsylvania; and Dr. Toni F. Clark, Director of Training, INSLAW, Inc.

4. The perception and reality should be created that serious, repeat and/or violent juvenile offenders in this country will receive some incapacitation.

5. Decision makers should have ready access to juvenile records when processing offenders.

6. Concepts such as career criminal prosecution should be studied for serious, repeat and/or violent offenders as appropriate.

7. The ultimate aim of the criminal justice system in dealing with serious, repeat and/or violent juvenile offenders should be the protection of the public.

8. A major goal of the criminal justice system should be the rehabilitation and reintegration into society of serious, repeat and/or violent juvenile offenders.

9. The work of the conference, "Dealing with Serious, Repeat Juvenile Offenders," should be continued with a) smaller group sessions, b) a focus on more specific topics, and c) the involvement of law enforcement and corrections officials.

B. DISCUSSION SUMMARY

Each proposed recommendation was read and discussed by conference participants. A summary of the discussion follows.

Proposed Recommendation:

> We recommend that serious, repeat juvenile offenders (defined here as having committed Part One, Uniform Crime Report index offenses) be singled out for special attention by the criminal justice community.

Controversy ensued over whether all Part I, U.C.R. index offenses should be included. There was particular concern over whether to include larceny and auto theft. Consensus was reached to define the target group as "serious repeat or violent." The idea seemed to be accepted that a violent crime need not be repeated to include an offender in the target group; and likewise offenders who repeated less violent Part I offenses, e.g., larceny, auto theft, should also be singled out. See Recommendation 1 for final, accepted version.

Proposed Recommendation:

> Because there are regional differences in the extent of the problem (e.g., urban vs. rural, coasts vs. midland), we recommend that attention be placed on solving the problem of the serious and/or violent repeat offender at the local or regional level.

This recommendation was rejected following a brief discussion.

Proposed Recommendation:

> Research findings about the extent of the problem appear inconsistent. This may be because there are too little data being used to answer the questions being asked. Work should be done to resolve the discrepancies in the data about the extent of the problem.

The group decided to revise the wording of this recommendation while agreeing with the intent. See Recommendation 2 for the final, accepted version.

Proposed Recommendation:

> We recommend that diverse approaches for dealing with serious repeat and/or violent offenders be tried and evaluated.

This recommendation was also reworded. Emphasis in the discussion was on the need for rigor and independence in the evaluations to overcome the inadequacies and limitations of previous evaluation work in this area. See Recommendation 3 for the accepted version.

Proposed Recommendation:

> We recommend that we create the situation wherein the perception and reality are that serious, repeat and/or violent juvenile offenders in this country will receive some incapacitation.

The discussion was made to omit "the situation wherein" and the recommendation then received the full support of the group. See Recommendation 4.

Proposed Recommendation:

> We recommend that the term "punishment" be applied to treating serious, repeat and/or violent juvenile offenders and that punishment be seen as compatible with both a rehabilitation and incapacitation approach.

This was a controversial recommendation and caused a vigorous debate. The vote was 10 to 12 in opposition; the recommendation was rejected.

Proposed Recommendation:

> We recommend that it is essential for decision makers to have ready access to juvenile records when processing offenders.

The participants voted to strike the last sentence of the recommendation but to leave the first intact. See Recommendation 5 for the approved version.

Following this review of the Reporters Committee proposals, participants were invited to submit other recommendations for the group's consideration.

The additional recommendations and the related discussion follow.

Proposed Recommendation:

> Concepts such as career criminal prosecution units should be studied for serious, repeat and/or violent juvenile offenders as appropriate.

Some concern was expressed about the group's getting too specific in recommending explanation of a specific program type. However, the recommendation passed. See Recommendation 6 (proposed by Professor Barry Feld, Professor of Law, University of Minnesota).

Proposed Recommendation:

> The reduction of national social expenditures, which impacts most adversely on those same racial and economic population sectors from which serious, repeat and/or violent offenders disproportionately emerge, is counter-productive to efforts to reduce juvenile delinquency. (Proposed by Michael McCann, District Attorney, Milwaukee County, Wisconsin)

There was controversy among the group about this recommendation. The view was expressed that evidence of social programs working effectively to reduce crime is insufficient to support such a recommendation. Some said they would support this recommendation, but that it was not an appropriate issue for the conference participants. It was agreed to include the issue in the conference report as a concern of Michael McCann and others, but that it would not be among the conference recommendations.

Proposed Recommendation:

> The ultimate aim of the criminal justice system in dealing with serious, repeat and/or violent juvenile offenders is the protection of the public (Proposed by John McGury, Circuit Court Judge, Chicago, Illinois).

This recommendation was accepted by the group and is included as Recommendation 7.

Proposed Recommendation:

> A major goal of the criminal justice system should be the rehabilitation and reintegration into society of serious, repeat and/or violent juvenile offenders (Proposed by Donna Hamparian, Researcher, Academy for Contemporary Problems, Columbus, Ohio).

This recommendation was adopted by the group and is included as Recommendation 8.

Proposed Recommendation:

The work of the conference should be continued.

Several suggestions about the best type of continuation were made. These included having 1) smaller group sessions, 2) a focus on more specific topics, and 3) the involvement of law enforcement and corrections officials. There was a consensus for accepting this proposal, which appears as Recommendation 9.

C. ADDITIONAL QUESTIONS

The Reporters Committee prepared a list of key questions that were raised during the conference but were not discussed in enough depth for proposal as recommendations. Due to time constraints these questions were presented, but not discussed in the final conference session. They are included here for future consideration. Some likely points of divergence in the opinions of conference participants concerning these questions appear throughout this report, particularly in the Discussion Summary sections.

KEY QUESTIONS

1. Who should make the decisions about appropriate processing and disposition of serious, repeat and/or violent offenders?

    a. Legislature
    b. Criminal justice system
    c. Juvenile waiver
    d. A mix of the above

2. Should incapacitation be automatic for serious, and/or violent offenders, and if so, what criteria should be used?

3. What tools should be available for making decisions and who should have access to the tools?

    Suggested tools:

    a. Criminal history information "rap" sheet with information about what criminal history information should be available and to whom.

        1) Convictions only
        2) Specific descriptions of priors
        3) Not guilties
        4) Dismissals
        5) Arrests
        6) Diversions
        7) Social history

    b. Research and aggregate case data

4. Does the juvenile justice system have resources to deal with serious, repeat and/or violent juvenile offenders?
   If not, what should change?

5. Does the adult system have appropriate resources?
   If not, what should change?

6. What approaches are worth replicating and studying?

7. To what extent are adults using juveniles to perpetrate serious crimes?
   How should these adults be treated?
   How should these juveniles be treated?

BIBLIOGRAPHY

Participants were provided with the following reading materials to use as background in preparing for the conference.

Castillo, Angele. "Juvenile Offenders In Court: The Debate Over Treatment," N.Y. Times, July 24, 1981, p. A-1.

Feld, Barry C. "Reference of Juvenile Offenders for Adult Prosecution: The Legislature Alternative to Asking Unanswerable Questions," 62 Minnesota Law Review 515 (1978).

Hutzler, John L., and Howard N. Snyder. Dealing with Serious Repeat Juvenile Offenders (Pittsburgh: National Center for Juvenile Justice, 1981).

Institute of Judicial Administration and American Bar Association. Standards Relating to Transfer Between Courts (Cambridge: Ballinger Publishing Co., 1981).

Lauer, Charles A. Statement of Charles A. Lauer Before the Subcommittee on Juvenile Justice and Judiciary Committee, United States Senate, July 9, 1981.

Monahan, John. "The Prediction and Control of Violent Behavior." Invited Testimony Before the Subcommittee on Domestic and International Scientific Planning, Analysis and Cooperation, (January 10, 1977).

National Advisory Committee for Juvenile Justice and Delinquency Prevention. Standards for The Administration of Juvenile Justice S3.116 (Washington, D.C.: U.S. Government Printing Office, 1980).

National Council of Juvenile and Family Court Judges. Resolution. July, 1981.

Smith, Charles P., and Paul S. Alexander. A National Assessment of Serious Juvenile Crime and the Juvenile Justice System: The Need for a Rational Response. Volume I: Summary. (Washington, D.C.: U.S. Government Printing Office, 1980).

Sobie, Merril. The Juvenile Offender Act: A Study of the Act's Effectiveness and Impact on the New York Juvenile Justice System (New York: Foundation for Child Development, 1981).

Vereb, Thomas S., and John L. Hutzler. Juveniles as Criminals: 1981 Statutes Analysis. Preliminary Draft (Pittsburgh: National Center for Juvenile Justice, 1981).

________. Statutory Exclusion of Crimes from Juvenile Court Jurisdiction. Preliminary Draft (Pittsburgh: National Center for Juvenile Justice, 1981).

Weis, Joseph C., and John Sederstrom. The Prevention of Serious Delinquency: What to Do? (Washington, D.C.: National Institute for Juvenile Justice and Delinquency Prevention, 1981. Distributed by Juvenile Justice Clearinghouse/NCJRS.)

Hall, J.C., D.M. Hamparian, J.M. Pettibone. Major Issues in Juvenile Justice Information and Training; Readings in Public Policy. Academy for Contemporary Problems, 1981).

PARTICIPANTS

Judges

The Hon. Lindsay Arthur
Senior Judge of District Courts
4th Judicial District
Hennepin County
Minneapolis, Minn.

The Hon. Richard P. Byrne
Presiding Judge, Juvenile Court
Los Angeles County
Los Angeles, Calif.

The Hon. Nicholas A. Cipriani
Court of Common Pleas
Philadelphia, Pa.

The Hon. Margaret Driscoll
Supreme Court Judge
Bridgeport, Conn.

The Hon. Seymour Gelber
Circuit Judge
Miami, Fla.

The Hon. Edward Healey
Rhode Island Family Court
Providence, R.I.

The Hon. John P. McGury
Circuit Court Judge
Chicago, Ill.

The Hon. John F. Mendoza
Judge
Las Vegas, Nev.

The Hon. Salvadore Mulé
Orleans Parish Juvenile Court
New Orleans, La.

The Hon. Enrique H. Pena
Juvenile Court Judge
El Paso, Tex.

The Hon. Romae Turner Powell
Juvenile Court Judge
Fulton County
Atlanta, Ga.

The Hon. Joseph B. Williams
Administrative Judge
Family Court
New York, N.Y.

Prosecutors

The Hon. David Armstrong
Commonwealth Attorney
Louisville, Ky.

James Bascue
Project Director
Operation Hardcore
Los Angeles, Calif.

The Hon. James A. Cales, Jr.
Commonwealth Attorney
Portsmouth, Va.

The Hon. Tom Collins
Maricopa County Attorney
Phoenix, Ariz.

The Hon. Harry F. Connick
District Attorney
Orleans Parish
New Orleans, La.

The Hon. Richard M. Daley
State Attorney for Cook County
Chicago, Ill.

The Hon. Steven Goldsmith
Prosecuting Attorney
Indianapolis, Ind.

The Hon. Ronald Lahners
County Attorney, Lancaster County
Lincoln, Neb.

The Hon. Norm Maleng
District Attorney
Seattle, Wash.

The Hon. E. Michael McCann
District Attorney
Milwaukee, Wis.

The Hon. Edward G. Rendell
District Attorney
Philadelphia, Pa.

The Hon. Robert Silvering
District Attorney
Manhattan County
New York, N.Y.

The Hon. Andrew L. Sonner
State's Attorney
Montgomery County
Rockville, Md.

Research Group

Prof. Barry Feld
Professor of Law
University of Minnesota
Minneapolis, Minn.

Donna Hamparian
Fellow in Social Policy
Academy for Contemporary Problems
Columbus, Ohio

Hunter Hurst
Director, National Center
for Juvenile Justice
Pittsburgh, Pa.

Dr. Alden Miller
Center for Criminal Justice
Harvard University
Cambridge, Mass.

Dr. Paul Tracy
Center for Studies in Criminology
and Criminal Law
University of Pennsylvania
Philadelphia, Pa.

Dr. Joseph G. Weis, Director
Center for Law and Justice
Seattle, Wash.

Prof. James Q. Wilson
Professor of Government
Harvard University
Cambridge, Mass.

Barbara Boland
Senior Research Associate
INSLAW, Inc.
Washington, D.C.

Other Participants

Ernesto Garcia
Director of Court Services,
Maricopa County Juvenile
Probation Department
Phoenix, Ariz.

James C. Howell
Acting Director
National Institute for Juvenile
Justice and Delinquency
Prevention
Office of Juvenile Justice and
Delinquency Prevention
Washington, D.C.

James F. Kelley
General Counsel
INSLAW, Inc.
Washington, D.C.

Dean Louis W. McHardy
Executive Director
National Council of Juvenile
and Family Court Judges
Reno, Nev.

Resource Panel Members and Invitees

Barbara Allen-Hagan
National Institute for Juvenile
Justice and Delinquency
Prevention
Washington, D.C.

Richard Allinson, Editor
Criminal Justice Newsletter
Hackensack, N.J.

Charles Bailey, Editor
Washington Crime News Services
Annandale, Va.

Gregory Brady, Program Manager
Fundamental Court
Improvement Program
Law Enforcement Assistance
Administration
Washington, D.C.

Robert Callaway
Acting Executive Director
National Youth Work Alliance
Washington, D.C.

Bruce Cohen, Chief Counsel
Juvenile Justice Subcommittee
Washington, D.C.

Douglas Dodge
Office of Juvenile Justice and
Delinquency Prevention
Washington, D.C.

Mark Gitenstein
Minority Chief Counsel
U.S. Senate Committee
on the Judiciary
Washington, D.C.

Peter Greenwood
The Rand Corporation
Santa Monica, Calif.

Hayden Gregory
Chief Counsel
Subcommittee on Crime
Washington, D.C.

Charles M. Hollis
Career Criminal Program
Law Enforcement Assistance
Administration
Washington, D.C.

John L. Hutzler
Director of Legal Research
National Center for Juvenile
Justice
Pittsburgh, Pa.

Michael Klipper
Chief Counsel
Criminal Law Subcommittee
Washihgton, D.C.

Patrick Langan
Career Criminal Research Program
National Institute for Justice
Washington, D.C.

Mark Moore
Center for Criminal Justice
Harvard University
Cambridge, Mass.

Linda McKay
Adjudication Division
National Institute of Justice
Washington, D.C.

The Hon. John R. Milligan
5th District Court of Appeals
Canton, Ohio

Ralph Oman
Staff Director
Criminal Law Subcommittee
Washington, D.C.

Deborah Owen
Minority Counsel
Subcommittee on Crime
Washington, D.C.

Janet Pirozzi
National Council of Juvenile and
Family Court Judges
Reno, Nev.

Richard Roe
National Street Law Institute
Washington, D.C.

Jonathan Rose
Assistant Attorney General
Department of Justice
Washington, D.C.

Richard Rosenthal
NCJRS/Juvenile Justice
Clearinghouse
Rockville, Md.

Howard N. Snyder
Director of Information and
Systems Research
National Center for Juvenile
Justice
Pittsburgh, Pa.

Arne Schoeller
Associate Director
Planning and Development
National Council of Juvenile and
Family Court Judges
Reno, Nev.

James C. Swain
Directof of Adjudication Division
Office of Criminal Justice
Law Enforcement Assistance
Administration
Washington, D.C.

Pamela Swain
National Institute for Juvenile
Justice and Delinquency
Prevention
Washington, D.C.

William Treanor
Staff Assistant
Senator Specter's Office
Washington, D.C.

Dr. Charles Wellford
Director
Institute of Criminal Justice and
Criminology
College Park, Md.

John Wilson
Acting General Counsel
Office of Justice Assistance,
Research, and Statistics
Washington, D.C.

* U. S. GOVERNMENT PRINTING OFFICE 1982 381-233/1907